

# **Exhibit 63**

Deposition of Jim Turntine  
Corporate Representative of  
TNT Amusements, Inc.  
December 22, 2023



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Court Reporting and  
Litigation Services

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James Turntine - Volume II

December 22, 2023

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TNT Amusements, Inc., d/b/a Play-Mor Coin-Op

vs.

Torch Electronics, LLC, et al.

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IN THE UNITED STATES DISTRICT COURT FOR  
THE EASTERN DISTRICT OF MISSOURI  
EASTERN DISTRICT

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TNT AMUSEMENTS, INC., :  
d/b/a PLAY-MOR COIN-OP, :  
Plaintiff, : Case No.  
v. : 4:23-cv-00330-JAR  
TORCH ELECTRONICS, LLC, :  
STEVEN MILTENBERGER, and :  
SONDRA MILTENBERGER, :  
Defendants. :  
----- X

Continued from 10/19/23  
VOLUME II OF III - Pages 289-567  
Remote Zoom Video-recorded  
30(b)(6) Deposition Transcript of  
JAMES DEAN TURNTINE  
Friday, December 22, 2023  
9:20 AM to 5:21 PM CST

PohlmanUSA Job No.: 288924  
Pages: 289-567  
Reported by: Melody Stephenson, BBA,  
FCRR, CRR, CRC, RPR, RSA, MO CCR 406, IA CSR 974

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A P P E A R A N C E S

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C O N T E N T S

EXAMINATION OF JAMES DEAN TURNTINE	PAGE
By Mr. Craig	295

\* \* \* \* \*

E X H I B I T S  
(Electronically attached)

DEPOSITION EXHIBIT	PAGE
4 Notice of Deposition	296
5 Midwest Petroleum typewritten note	298
6 5/14/17 Turntine to Brown email	313
thread re: Gambling expansion...	
7 5/4/17 Turntine to Chipman email	323
thread re: Gambling expansion...	
8 5/4/17 Turntine to Tate email thread	339
re: Gambling expansion...	
9 5/4/17 Turntine to Jones email thread	341
re: MO Lottery overreach...	
10 8/28/18 Harness to Turntine, et al.,	347
email re: Amusement Machine Operators	
11 10/22/18 Turntine to Harness, et al.,	357
email thread re: ATC Final Order...	
12 10/24/18 Harness to Turntine, et al.,	371
email thread re: Correspondence in	
support of illegal gaming machines...	
13 1/25/19 Havey to Turntine email	406

1		thread re: Torch machines in	
2		St. James convenience store	
3	14	2/12/19 Turntine to Cobb, et al.,	435
4		email re: DGE subcontracting info	
5	15	3/29/19 Turntine to Harness, et al.,	459
6		email thread re: SB 431 regarding	
7		illegal gaming machines	
8	16	(no date) Turntine to Havey & Marla	489
9		re: New gambling law	
10	17	4/15/19 Turntine to Havey email	490
11		thread re: Boards	
12	18	4/17/19 Cobb to Turntine, et al.,	493
13		email re: Update on legislative	
14		efforts...	
15	19	4/18/19 Harness to Cobb, et al.,	504
16		email thread re: Update on	
17		legislative efforts...	
18	20	6/3/19 Turntine to Harness, et al.,	507
19		email thread re: Subject: Re:	
20	21	6/20/19 Turntine to Harness, et al.,	509
21		email thread re: House Interim	
22		Committee on gaming named	
23	22	10/19/23 Deposition transcript of	518
24		James Turntine, Volume I	
25	23	6/24/19 Turntine to Smith email re:	522

1           Emailing: Gaming letter  
2       24    7/1/19 Turntine to Kleinsorge email       535  
3           thread re: Address for VFW machine on  
4           gray machines  
5       25    7/1/19 Turntine to Havey email re:       538  
6           Letter from VFW needed  
7       26    7/8/19 Turntine to Cobb email thread     540  
8           re: Pre-reveal gambling machines...  
9       27    7/19/19 Turntine to Schatz, et al.,       541  
10          re: MO Amusement Operators...  
11       28    7/20/19 Turntine to Murphy email        547  
12          thread re: MO Amusement Operators...  
13       29    7/23/19 Turntine to Smith, et al.,       550  
14          re: Pre-reveal gambling machines...  
15       30    7/23/19 Nelson to Turntine email        553  
16          thread re: Pre-reveal gambling  
17          machines...  
18       31    7/31/19 Murphy to Turntine email        556  
19          thread re: What's at stake

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P R O C E E D I N G S

VIDEOGRAPHER: We are on the record. This is the videotaped deposition of James Turntine. Today's date is December 22nd, 2023, and the time is 9:20 AM Central Time in the case of TNT Amusements, Incorporated, et al., versus Torch Electronics, LLC, et al. The case number is 4:23-cv-00330-JAR, pending in the United States District Court for the Eastern District of Missouri Eastern District.

This deposition is being held remotely via Zoom. My name is Frank Holmes, the videographer, associated with PohlmanUSA Court Reporting, located at 10 South Broadway, Suite 1400, St. Louis, Missouri. The court reporter is Melody Stephenson also with PohlmanUSA Court Reporting.

Counsel, will you please state your appearance for the record.

MR. FINNERAN: Richard Finneran and Mary Grace Warren on behalf of Plaintiff TNT Amusements, Incorporated.

MR. CRAIG: This is Aaron Craig on behalf of defendants.

VIDEOGRAPHER: Will the court reporter please swear in the witness, and we may proceed.



1       Whereupon,

2                       JAMES DEAN TURNTINE,

3       being first duly sworn or affirmed to testify to  
4       the truth, the whole truth, and nothing but the  
5       truth, under penalties of perjury, was examined  
6       and testified as follows:

7                       DIRECT EXAMINATION

8       QUESTIONS BY MR. CRAIG:

9               Q   All right.  Mr. Turntine, we are back to  
10       continue what we started on October 19th of this  
11       year which was your corporate representative  
12       deposition testimony on behalf of TNT Amusements;  
13       correct?

14              A   Yes, sir.

15              Q   All right.  Where are you currently  
16       located?

17              A   I'm in my office at 196 Highway FF,  
18       Sullivan, Missouri.

19              Q   Is there any reason why you couldn't have  
20       made an appearance today at Bryan Cave's offices  
21       in St. Louis?

22              A   Not necessarily.  I could've.

23              Q   Okay.  All right.  I'm going to show --

24                   MR. CRAIG:  Let's see.  I think -- Rich,  
25       correct me if I'm wrong, but I think we marked

1 three exhibits to his initial 30(b)(6) on the 19th  
2 of October; is that right?

3 MR. FINNERAN: I -- I don't recall  
4 exactly.

5 Do you -- do you know if that's right?

6 MS. WARREN: Yeah. It was the two things  
7 that we produced and then -- let me -- I have the  
8 list.

9 MR. FINNERAN: We can pull it up for you,  
10 Aaron, if you need us to.

11 MR. CRAIG: I -- I -- I'm pretty -- I'm  
12 pretty sure it was the deposition notice and the  
13 two exhibits that you produced.

14 MR. FINNERAN: Okay.

15 MR. CRAIG: Okay. So I'm going to --

16 MR. FINNERAN: Go ahead.

17 MR. CRAIG: I'm going to start at four.

18 Q (By Mr. Craig) Okay. So, now, you should  
19 be able to see a new document that will populate  
20 on your end that is titled 20 -- well, if you're  
21 looking at it, it's the Notice of Deposition  
22 Continuance of Corporate Representative of  
23 Plaintiff TNT Amusements, Inc., and it has been  
24 marked at the bottom as Exhibit 4; correct?

25 A Yeah.

1 Q Okay. Have you seen this Notice before  
2 today?

3 A I believe I have. Yeah.

4 Q And then it includes an attachment of the  
5 original Amended Notice that you received prior to  
6 October 19th, correct, if you look at Page 3  
7 continuing?

8 A Yeah. I mean, it all kind of looks the  
9 same, so -- till you start --

10 Q Yeah. And I'll --

11 A -- to figure out there's a difference  
12 but --

13 Q Yeah. No. I'll represent it's -- it's --  
14 it's exactly the same thing. There are no  
15 differences. We just attached and reincorporated  
16 that prior deposition notice to -- to make clear,  
17 you know, as we stated, on Page 1, that, you know,  
18 we're -- we're here to talk about all the topics  
19 again in Exhibit A. So it's just a continuation  
20 as if, you know, we pick up now where we left off  
21 where we ended on the 19th; okay?

22 A Okay.

23 Q Okay. And -- and since that time, I think  
24 you understand that there's been some significant  
25 discovery that has been produced by TNT that would

1 be responsive to many of the topics in the  
2 original Amended Notice that we sent prior to your  
3 October 19th deposition; correct?

4 A I do.

5 Q And then I -- last night, I received a few  
6 more exhibits, four or five, and -- and we may  
7 look at those later today, but a -- a few more  
8 exhibits that I believe your counsel said you,  
9 with probably their cooperation, had put together  
10 to respond to a few more topics in -- in greater  
11 detail. You were aware of that; right?

12 A I think so.

13 Q All right. Now, I've -- I've shown you a  
14 new document. This is document three in your  
15 list. It's been marked as Deposition Exhibit 5  
16 for identification. And I will represent to you  
17 that this is one of the documents that your  
18 counsel sent late last night that I was told was  
19 responsive to topic 23 of our Notice relating to  
20 move tickets. Is that consistent with your  
21 understanding based on just looking at this  
22 document?

23 A The document looks to me like a  
24 memorialization done by Donna Havey of a  
25 conversation that she had or a phone call she

1 received on 8/17 of 2018. One of three types of  
2 memorializing, if you will, are underlying  
3 documents that is tied to some of the moves of  
4 equipment out of that location, equipment that --  
5 that TNT owned out of that location to make room  
6 for Torch devices in one way or another.

7 Q If you look at Page 2, there's work  
8 orders. Is that -- and you continue. I -- I know  
9 that you said the top page is a memorialization,  
10 but you would agree with me that there's more  
11 attached to this document in that there's --

12 A Yeah. I -- I see that now. I -- I didn't  
13 know which one you were referring to in your  
14 question, so I went with the first page. There  
15 are additional pages. The second page is an  
16 actual work order out of our system that says,  
17 basically, the same thing, that her personal  
18 memorialization to, I guess, herself that she  
19 saved or -- or added to the file. And the third  
20 page, wherever the third page starts, is more of  
21 the work order where it's completed. And the  
22 fourth page is more of the work order.

23 Q If we get to the sixth page, it looks like  
24 we get into actual move tickets; right?

25 A Okay. This is the fifth page. The fifth

1 page is a move ticket for one of the devices  
2 that's sideways. So --

3 Q Well, I think on my -- on mine at least,  
4 Page 5 would be a work order detailed by a  
5 location that is upright?

6 A On -- on my page -- okay. Page 6. I  
7 guess I'm looking at the number at the top, and  
8 the number's at the bottom. Page 6 is the first  
9 move ticket which is one of our additional  
10 documentations that we -- that we use inhouse here  
11 to track the work throughout, you know, the day  
12 or -- or whatever's happening.

13 Q Okay.

14 MR. FINNERAN: Aaron? Aaron, just for the  
15 record, you're marking this whole thing as  
16 Exhibit 5? I don't think I heard you say an  
17 exhibit number yet.

18 MR. CRAIG: Yeah, I did. I said it had  
19 been marked as Exhibit 5 for identification.

20 MR. FINNERAN: I might've missed it.  
21 Sorry. Thank you.

22 MR. CRAIG: No worries.

23 Q (By Mr. Craig) Okay. So then I did want  
24 to ask you about the very first page. Do you know  
25 when this information was created?

1           A Not expressly, no. I assume it was  
2 written by Donna, either around that date or  
3 sometime thereafter, and I don't know, really, why  
4 it's included, because we, obviously, have the  
5 other actual work orders and move tickets, but she  
6 may have just wanted to memorialize, you know, the  
7 event. I -- I don't know the -- the actual date  
8 it was written. It doesn't say.

9           Q So as you sit here today, you can't tell  
10 me if this information was created by Donna Havey  
11 contemporaneous with this event that she says  
12 happens on 8/17/18?

13          A Define contemporaneous for me. What do  
14 you mean by that word inserted in that sentence?

15          Q Yeah, basically, happening at the same  
16 time or right after the same time.

17          A Well, I -- I don't know. I think I said  
18 that. I'm not sure. It doesn't say when she  
19 wrote this.

20          Q Okay.

21          A So all I can say is she memorialized her  
22 accounting of, on the 17th of August, 2018, Tracy,  
23 the manager, called her.

24          Q No, I -- I can read it. No. I'm just --  
25 I'm -- I'm just interested in when this took

1 place. Because, you know, to be a business record  
2 within the definition of the law, there's some  
3 requirements. So when this was written and why it  
4 was written is important. And I take it you don't  
5 understand or have appreciation at this time for  
6 when this was specifically drafted by Donna Havey;  
7 correct?

8 A Well, since -- since she is -- I haven't  
9 really looked hard at our call log records. So  
10 this could actually be what our call log record  
11 looks like. We -- we have a call log built in.  
12 So I don't know if she wrote this to herself or if  
13 it's actually what she typed in the call log and  
14 this is how it comes out looking.

15 So the best answer I can give you is until  
16 I see maybe a little bit more of what our call log  
17 looked like -- because I haven't sit and studied  
18 one for quite a while. I -- if -- if I'm told  
19 you, yeah, there's a call log, and -- and I know  
20 there is, but having printed it out or what it  
21 looks like when it's printed out or scanned in, I  
22 haven't -- I can't say that I know what date this  
23 was written or --

24 Q That's fine.

25 A -- if that's what it is.



1           Q   If you had a call log, wouldn't --  
2               wouldn't this be included with the other call  
3               logs? Why would it be segregated and then  
4               attached to move --

5           A   That could be what this is. This could be  
6               a call log printed version.

7           Q   So that call -- what you're saying is is  
8               that TNT's call log may include every work order,  
9               regardless of the day, just as one compiled list  
10              of --

11          A   No. That's not what I'm saying. That's  
12              not what I'm saying.

13          Q   Well, this is. I mean, this was produced  
14              as one document. So I'm just trying to -- I'm  
15              trying to understand how this list of --

16          A   Okay.

17          Q   -- you know --

18          A   Okay.

19          Q   -- numerous, numerous documents could  
20              possibly be a contemporaneous call log or even a  
21              contemporaneous, you know, business record of  
22              these events. And -- and my -- I -- I -- you just  
23              don't know, right, as you sit here?

24          A   Well, I think I do know. I -- I'm -- I'm  
25              trying to tell you what I know. You -- the way

1       you presented it to me this morning, it looks like  
2       it's one exhibit that's multiple pages that are  
3       different documents assembled together associated  
4       with the activity that happened as a result of  
5       this phone call.

6           Q   That's right.

7           A   And --

8           Q   I'm -- what I want to know is -- so this  
9       is how it was produced to us both last night and  
10      in our files separately when TNT produced it to  
11      us.

12          A   Okay.

13          Q   So, yeah, I don't understand why all these  
14      21 pages would be kept together in the regular  
15      course of your business and then have just one  
16      page on top that would explain the 22 pages that  
17      follow. I don't know how that would be.

18          A   I don't think they are kept in our records  
19      that way. I think they were put together for you  
20      as part of discovery as the underlining documents  
21      that support the move that occurred because of  
22      that phone call.

23          Q   So you think that this top-level page was,  
24      basically, a -- a summary that was drafted to help  
25      us better understand why those move tickets were

1 given to us and what the move tickets say?

2 A I think they're included along with the  
3 move tickets and the work orders to tell the whole  
4 story of the under- -- the underlying documents,  
5 as I've said, to the actual things that happen  
6 because of the Torch machines coming into that  
7 location and us needing to move our machines out.

8 Q Okay.

9 A They're the underlying document. That's  
10 the discovery that we presented and -- and shared  
11 with our attorneys, and they, apparently, passed  
12 it on to you.

13 Q And -- and did you ask Donna Havey to do  
14 that sort of summary for the move tickets as part  
15 of the --

16 A I -- I -- I think you might --

17 Q -- litigation process? Sorry.

18 A I'm sorry. I didn't mean to talk over  
19 you. I think I did ask her to write down anything  
20 that she could remember as well as the documents  
21 that we have. And whether she wrote it that day  
22 on the 17th of August, 2018, or whether she wrote  
23 it, you know, two months ago as she was pulling  
24 the documents together, sitting here right this  
25 moment, I can't say because I don't know if that's

1       what a version of our call log looks like.

2               And I'm -- I'm honestly saying I know we  
3       have a call log where when we receive a service  
4       call or, you know, activity that's going to create  
5       work, we log it. And I don't know that I've ever  
6       seen one printed out.

7               Q   Okay.

8               A   And it may be printed out and look just  
9       like this, and that could be her call log document  
10      printed out, or it could just be here's the  
11      underlying document we have, and this is my memory  
12      of what else went along with that. I don't know,  
13      honestly, which it is yet. I might be able to  
14      figure it out if you show me more. As the day  
15      goes along, I may back up and say, "Yeah. That's  
16      our -- apparently, that's what our call log looks  
17      like when it's printed." I --

18              Q   Okay.

19              A   -- I --

20              Q   Okay. Yeah.

21              A   -- honestly at this moment don't know what  
22      the call log itself looks like.

23              Q   Sure. No. Yeah. That's -- that's fine.  
24      Do you know if the call log has been produced in  
25      this case?

1           A   Well, on one of the other documents that  
2           we've shared through discovery, we have -- in each  
3           instance of machines being moved, we have a header  
4           that tells us do we have a work order? Do we have  
5           a call log? Do we have move tickets?

6                   And so without seeing that document or  
7           have it in front of me in association with this  
8           particular move, I don't want to answer and say,  
9           yes. This is the call log. Or, no, it's not the  
10          call log. It's just her personal recollection  
11          that she memorialized along with the other  
12          documents that are associated with that move.

13          Q   Okay. Can we agree that if this -- if  
14          these cover pages on these, you know, move  
15          ticket-type documents were, in fact, you know, her  
16          attempt to memorialize her recollection, you know,  
17          about those documents for purposes of this  
18          litigation, then that -- that, obviously, would've  
19          happened sometime between March 15th of this year  
20          and today; right?

21          A   I don't know if I can agree with that,  
22          Aaron. I -- I -- I'm speaking for a third party  
23          that I'd have to ask and say when do you think you  
24          wrote this? Or is this a version of our call log?  
25          I don't mean to be difficult, but I don't want to

1 answer something that I honestly don't know the --  
2 the -- the truth of.

3 Q Yeah. Well, and that's fair. But I think  
4 you said as well that you think you may have asked  
5 Donna Havey to memorialize in writing what she  
6 could remember about these types of move tickets.  
7 And I think we could both agree that if that  
8 happened, it would have happened sometime during  
9 the pendency of this litigation; correct?

10 A Not necessarily done. This is --

11 MR. FINNERAN: Hold on. Hold on, Jim.  
12 I've got to -- we've got to make sure there's time  
13 for me to object.

14 Objection. Calls for speculation.

15 You may answer.

16 A Okay. No. We've had previous legal  
17 action, and we've been dealing with the Torch  
18 problem since 2000, what, '17? And so once we  
19 became aware we've got a problem and we don't know  
20 how to deal with this, we're going to have to  
21 figure out a legal recourse or something, I've  
22 instructed her to -- to keep notes and keep --  
23 keep a diary, so to speak, keep notes if you have  
24 anything that -- that's affected or caused by  
25 this. And so I don't know if this is that.

1 I'd have to ask her. What is this? Is  
2 this the call log printed off? Or is this a note  
3 you made recently that just supports what's  
4 already shown in the move tickets? I think it's  
5 very consistent with the work orders and move  
6 tickets. It seems to me to be more helpful. And  
7 so I -- I don't understand, you know, when it  
8 happened, really.

9 And I guess there's a reason you're  
10 asking, but without understanding more, I don't  
11 know how to answer the question any more honestly  
12 than I'm not sure what the top page is without  
13 seeing more or stopping and asking Donna Havey,  
14 when -- when do you think you wrote this and --  
15 and why?

16 Q Okay. That's fine. I believe that you'll  
17 probably recall that a number of our topics for  
18 the 30(b)(6), when we met last, they talked about  
19 communications between TNT, anybody associated  
20 with TNT, and a -- and a broad range of people,  
21 entities, and organizations to include Senator  
22 Schatz, topic 9; news media, topic 10; Missouri  
23 Department of Public Safety, topic 11; Missouri  
24 Division of Alcohol and Tobacco Control was topic  
25 12; communications with Missouri Gaming Commission

1 was topic 13; communications with the Missouri  
2 State Highway Patrol was topic 14; communications  
3 between TNT and the Missouri Lottery was topic 15.  
4 Let's see. Communications between TNT and any  
5 lobbyists was topic 17; communications between TNT  
6 and Matthew Becker, topic 18; communications  
7 between TNT and the Missouri Gaming Association or  
8 anybody associated with the gaming association,  
9 topic 19; any trade association-related  
10 communications, topic 21. You generally recall  
11 that; right?

12 A Yes.

13 Q Okay. And then at that time, you'll  
14 recall that it -- I think there was some back and  
15 forth about, you know, what you had done to  
16 prepare to respond to those topics and,  
17 eventually, we got to a point where I think you  
18 said, yeah, it -- it would've potentially been  
19 possible, given enough time, for me to search for  
20 those things and, you know, bring them to the  
21 deposition. That is not something that you had  
22 done prior to October 19th; correct?

23 A I don't -- I don't know what your question  
24 there was, Aaron, exactly.

25 Q Yeah. No. I mean, I -- I had asked you,



1       you know, if -- what you did to prepare to discuss  
2       the various communications that you or TNT may  
3       have had with all of those different people or  
4       entities. And I -- I think we can both agree  
5       that, you know, you hadn't had an opportunity at  
6       that point to, you know, look through TNT's  
7       records and, you know, come to a conclusion or  
8       understanding about the totality of all of those  
9       communications which hadn't been produced yet;  
10      right?

11           A No. I think what I told you in my  
12      previous deposition on the 19th was that I had  
13      spent all of the prior week going through my own  
14      emails, talking to my staff, finding everything we  
15      could about everything that you were asking for,  
16      which was, you know, 25 items, and the one that  
17      you just went through was a -- was -- was a whole  
18      bunch of things within the one item. And  
19      everything that I could remember that I had seen  
20      or heard from my staff I shared with you during  
21      that deposition.

22           I also said that there were things that  
23      we -- we -- we, obviously, couldn't get to every  
24      single thing because there were -- that 25  
25      extrapolates out to probably -- I don't know --

1 thousands of potential emails and -- and -- and  
2 things to remember. I couldn't remember  
3 everything, and I said that, I think, in my  
4 deposition. And then we went on to -- to  
5 supplement the deposition --

6 Q What -- I -- I -- well, I -- I -- and  
7 look. I'm not trying to be rude at all and -- but  
8 I think maybe you feel like I'm -- I'm not trying  
9 to trick you here at all. I'm literally -- I'm  
10 just trying to lay the foundation for what I'm  
11 going to do next which is ask you a lot of  
12 questions about documents that were not produced  
13 by the -- by October 19th. So neither of us had  
14 an opportunity to discuss them at that point and  
15 the fact that they are, I believe, responsive to  
16 those topics.

17 And that's -- that's really why I was  
18 asking you that question. I think we can agree  
19 that neither of us had that level of detail  
20 available to either one of us to walk through  
21 specific documents and talk about this  
22 communication and that communication on  
23 October 19th; correct?

24 A I think that's fair enough. Yes.

25 Q My computer was doing something wonky on

1 me here. I'm sorry. Give me a second.

2 A I know the feeling.

3 Q Yeah. Okay. All right. So I've now  
4 shown what should be a document four in your list,  
5 and it has been marked as Deposition Exhibit 6 for  
6 identification. I'm going to move the exhibit  
7 sticker. Okay. And this is an email from  
8 yourself to danbrown@senate.mo.gov and ccing Dave  
9 Schatz on 5/4/2017; correct?

10 A It looks like an email from me to them,  
11 yes.

12 Q If you look down at the -- the bottom of  
13 Page 2. It's usually helpful to start these, you  
14 know, email chains at the bottom because we're  
15 working -- we're working up in the chronology. So  
16 we'll be doing that a decent amount today.

17 Do you see at the bottom of Page 2,  
18 there's an email from yourself, dated March 6th,  
19 2017, to danbrown@senate.mo.gov. Subject:  
20 Missouri Lottery overreach. Video lottery  
21 terminals, VTLs [sic]. Do you see that?

22 A Well, you say in the bottom of Page 2?

23 Q Yeah. And when I'm -- when I'm saying  
24 Page 2 -- yeah. When I'm saying -- it is Page 2.  
25 It's -- it's literally Page 2. But if you look at

1 2/3 at the bottom of your screen where there's the  
2 up and down arrows and then there's a number slash  
3 number --

4 A Uh-huh.

5 Q -- that will, basically, always show you  
6 what page of the PDF of the exhibit we're looking  
7 at.

8 A Okay.

9 Q So it should say 2/3. Do you see that?

10 A Yes.

11 Q And then what might also help us as we  
12 have these discussions is at the bottom of, I  
13 think, every page of the communications or  
14 exhibits that we'll look at, aside from the ones  
15 that I received last night, there will be a  
16 marking at the bottom that says something like TNT  
17 with a whole bunch of zeroes and then a number.  
18 Do you see that?

19 A I'm sorry. I was distracted. What --  
20 what -- what'd you say?

21 Q Yeah. At the bottom of the page where  
22 you're looking at, you know, Page 2 dash 3 --

23 A Right.

24 Q -- or 2/3, right at the bottom, the last  
25 thing on the page would be a number. It -- it's

1 TNT, a whole bunch of zeroes, and then a -- a  
2 number. 277. Do you see that?

3 A I see it.

4 Q Okay. So every -- for the most part, most  
5 of the documents that we're looking through today  
6 will have that identification with a number and  
7 every page will be individually numbered. And  
8 just for the record, I will say that we received  
9 all of TNT's production without any Bates numbers.

10 So these are -- are just internal control  
11 numbers as it got printed out automatically in our  
12 relativity system. So these are not the -- TNT's  
13 Bates numbers, but they will, hopefully, help us  
14 to the extent that you've got a question as to  
15 what page I am on and the software, you know, that  
16 you're looking at is confusing, you can always  
17 look to the bottom of the page. And you can say,  
18 "It's Page 227 ending in 227," and then we can get  
19 on the same page; okay?

20 A I think so. Yeah.

21 Q All right. So if you're looking at  
22 Page 2/3 or TNT 277, do you now see an email from  
23 yourself dated March 6th, 2017, to Dan Brown?

24 A I -- I see the one that -- that then  
25 starts there and goes on to Page 3. Is that what

1       you're talking about?

2           Q   Correct.

3           A   Yeah.

4           Q   Okay.  Yeah.  And then if you go to  
5       Page 3, you start that email.  You say, "Senator  
6       Brown.  I am a constituent and business owner in  
7       Sullivan, Missouri.  I own Play-Mor Coin-Op,  
8       Biermann and Turntine Properties, LLC, and I am  
9       the chairman of the Board of Trustees for the town  
10      of West Sullivan, Missouri."  Did I read that  
11      correctly?

12          A   Yes.

13          Q   Okay.  And Play-Mor Coin-Op, that is, for  
14      all intents and purposes, TNT Amusements that  
15      we've been -- if I refer to TNT, we're also  
16      talking about Play-Mor Coin-Op; correct?

17          A   TNT does business as, d/b/a, Play-Mor  
18      Coin-Op.

19          Q   Right.  So one in the same, essentially --

20          A   Yeah.

21          Q   -- correct?

22          A   Yes.

23          Q   Okay.  Now, what is Biermann and Turntine  
24      Properties?

25          A   It's pronounced Biermann.  Biermann and

1 Turntine Properties is an LLC that -- that I own,  
2 well, maybe my trust owns or my wife's trust, some  
3 ownership structure there. But this is a real  
4 estate business where we own residential,  
5 commercial, industrial properties.

6 Q Okay. Does Biermann -- Biermann and  
7 Turntine Properties, does it own any type of  
8 amusement devices or any sort of electronic gaming  
9 devices?

10 A No. The only company that I own any of  
11 those types of devices in is TNT Amusements doing  
12 business as Play-Mor Coin-Op. Biermann and  
13 Turntine Properties is a real estate holding  
14 company business.

15 Q Okay. Other than owning any business, do  
16 you have any financial interest in any other  
17 entity that operates other amusement devices or  
18 electronic, you know, gaming devices of any -- of  
19 any type?

20 A No.

21 Q Okay. And that's -- that's true for you  
22 personally or any trust that you may be a  
23 beneficiary of or any family member, like your  
24 wife? Same -- same answer?

25 A Same answer. Yes. We own no company or

1 part of a company or anything else that operates  
2 gaming devices.

3 Q Well, and my question was broader. It  
4 included anything that you might describe as  
5 amusement devices as well.

6 A All the amusement devices that we own are  
7 operated by TNT Amusements doing business as  
8 Play-Mor Coin-Op.

9 Q Right. Do you have a financial interest,  
10 any type of financial interest, like, you -- you  
11 might get some share or you might, you know, get  
12 some dividend or you might just, you know, have a  
13 financial interest, however the -- broadly that is  
14 described, in any other company, entity, or  
15 organization that operates amusement devices?

16 A Amusement devices, no, or gaming devices,  
17 no.

18 Q Okay. All right. And then if you skip  
19 down to the next paragraph, you state to Senator  
20 Brown, "Unfortunately, the proliferation of the  
21 Missouri Lottery and Diamond Games pull tab  
22 machine program, 267 machines, takes businesses --  
23 I'm sorry -- takes business opportunities from my  
24 company. I do not support competing for  
25 entertainment dolu- -- dollars with the state of



1 Missouri Lottery and an out-state company, Diamond  
2 Games." Did I read that correctly?

3 A Yes.

4 Q Who's Diamond? What's -- what is Diamond  
5 Games?

6 A Diamond Games is a company that is a  
7 subcontractor or, I guess, a contractor -- not a  
8 subcontractor, a contractor to the lottery, the  
9 Missouri Lottery, and they operate pull tab  
10 machines under the auspices and in cooperation  
11 with and licensing, or whatever the right legal  
12 terminology is, with the Missouri Lottery.

13 Q Okay. And then I'm going to skip a  
14 sentence. And you continue and -- and you say,  
15 "Without any authority from the general" -- sorry.  
16 I'm going to start again because I have a hard  
17 time reading words.

18 You say, "Without any authority from the  
19 general assembly, the lottery and Diamond Games  
20 expanded their program from 100 machines to 267  
21 machines and put some of those machines in other  
22 liquor-by-the-drink bars and taverns." Do you see  
23 where I'm talking about there?

24 A Yes.

25 Q Did I read that correctly?

1           A   Yes.

2           Q   What do you mean by liquor-by-the-drink  
3   bars and taverns?

4           A   I'm trying to distinguish, for the  
5   Senator's benefit, the difference between a  
6   fraternal -- a fraternal location and a  
7   traditional either mom-and-pop bar or a  
8   corporate-owned bar and restaurant.  So a  
9   fraternal is, for your benefit, if -- if you don't  
10   already know, an Eagles Club or a Moose Lodge or a  
11   VFW or an American Legion, those sorts of, you  
12   know, typically, in our world known as fraternal  
13   organizations.

14          Q   Okay.  Thank you for that clarification.

15          A   Sure.

16          Q   You continue and you say, "It was our  
17   understanding the general assembly was going to  
18   hold the lottery and Diamond Games' feet to the  
19   fire and go back to the pilot program standard.  
20   It is now my understanding the lottery and Diamond  
21   Games has HOODWINKED" -- I say that because it's  
22   in all caps, right? -- "the House of  
23   Representatives into continuing with, now, 267  
24   machines, but only in fraternal organizations, by  
25   representing there is some difference between

1 fraternal organizations and liquor-by-the-drink  
2 locations." Did I read that correctly?

3 A Yes.

4 Q Okay. Why did you capitalize -- why did  
5 you make hoodwink -- sorry. Why did you make the  
6 word hoodwinked an all-caps word?

7 A Apparently, I was angry. I was somewhat  
8 disappointed in what had been going -- what had  
9 happened. And, apparently, if I remember right,  
10 we had had previous conversations with the Senator  
11 and others. When I say "we," at -- at this  
12 juncture in my career -- this is seven years ago  
13 almost, I -- I was working with the state  
14 association, the Missouri AMOA, that we spoke  
15 about earlier.

16 And, apparently, we had had some meetings  
17 and been told that they were going to rein this  
18 in, is my recollection, and they hadn't, and I was  
19 upset about it. I think that's why I used the  
20 word "hoodwinked," meaning you were tricked or  
21 somehow somebody fooled somebody because all of a  
22 sudden, these gambling devices were being placed  
23 in bars and taverns.

24 And I -- if I remember at the time, it was  
25 in Springfield, Missouri. And I don't operate in

1       that area, but one of our other members did, and  
2       he was very upset, because it was impacting his  
3       business. And that's how the association worked.  
4       We were there to lobby for our membership's best  
5       interests. And that's part of what this is. I --  
6       I think that's the best description I can -- can  
7       give you for it.

8           Q   I appreciate the description. So, I mean,  
9       yeah, fair to say I -- it seems like you were  
10      upset that maybe Diamond Games was trying to pull  
11      a fast one on the legislature; fair?

12           A   Them and the lottery together, I felt,  
13      were -- were kind of pulling a fast one on  
14      everybody. Yeah.

15           Q   Gotcha. And then if you go down to that  
16      next paragraph -- skip the first sentence. You  
17      say, "We oppose Diamond Games and the Missouri  
18      Lottery operating ANY machines in any type of  
19      location here in Missouri because doing so  
20      directly competes with our business"; correct?

21           A   That is correct.

22           Q   And the word "any" after "operating" is,  
23      again, in all caps; correct?

24           A   Yes.

25           Q   And -- and why was it that you were

1       opposed to Diamond Games and the Missouri  
2       lottering -- lottery operating any machines of  
3       this type in any location in Missouri?

4           A   For the reasons I just explained that they  
5       compete with amusement devices in a -- in a  
6       establishment and for revenue.  So it hurts -- it  
7       potentially hurts our business or the business of  
8       our members.

9           Q   So they're being allowed to operate --  
10       yeah.  That's fine.  That's -- I -- I got it.  I  
11       understand.

12           Okay.  I've -- I've put a new document up,  
13       and I've marked this document Exhibit 7 for  
14       identification.  Let me know when you've got that  
15       document pulled up.  It should be document five in  
16       your list.

17           A   I have it.

18           Q   Okay.  So, again, Exhibit 7 has been put  
19       in front of you, which is an email from you to a  
20       jasonchipman@house.mo.gov dated May 4th, 2017;  
21       correct?

22           A   Correct.

23           Q   Well -- sorry.  Let's -- let's pull it  
24       back to -- let's talk about six again -- I only --  
25       I only asked you about one email on six -- which

1 might help us move more quickly through seven.

2 All right. So are you -- are you back at  
3 Exhibit 6?

4 A I am.

5 Q Okay. So we talked about the first email  
6 that you sent Dan Brown on March 6th. And then if  
7 you go directly above that, there's another email  
8 that you sent to Dan Brown on April 12th, 2017;  
9 correct?

10 A Yes.

11 Q And you say, "I'm sending this letter to  
12 reiterate all of my feelings that were shared with  
13 you in the prior email on March 6th." And then --  
14 but I want to focus on the next sentence where you  
15 say, "However, your staff was able to indicate you  
16 remained steadfast in your support of our Missouri  
17 small businesses in this issue concerning Diamond  
18 Games and their inappropriate expansion of a  
19 Missouri Lottery pilot program. I say, quote,  
20 abuse, end quote, because, obviously, the 100  
21 machine pilot program has been expanded to, now,  
22 275 machines in an unknown number of locations and  
23 all done without legislative oversight or  
24 permission whatsoever. This is wrong and must be  
25 stopped." Did I read that correctly?

1           A   You did.

2           Q   Okay.  So this is just you again trying to  
3           make your -- essentially the same point that you  
4           made in the email that we talked about below;  
5           right?

6           A   Correct.

7           Q   If you skip to the last paragraph of this  
8           email, you say, "A few minutes ago, I received a  
9           very troubling email from our MO AMAO [sic] friend  
10          and lobbyist Kathi Harness.  What is AMAO -- I'm  
11          sorry -- AMOA?

12          A   As I explained earlier in the previous  
13          deposition, we -- we refer to it as MO AMOA  
14          Missouri Amusement Machine Operators Association.

15          Q   Okay.  There's a space there, and my mind  
16          did not process those two things together, but,  
17          yes.  So MO -- MO, period, AMOA is MO AMOA, which  
18          is the trade organization that we did discuss back  
19          in October; correct?

20          A   Correct.  It -- it existed at that time in  
21          2017.  It's since become defunct.

22          Q   When -- and maybe you told me this again.  
23          I'm sorry.  I've slept since which means memory.  
24          Whenabouts did MO AMOA disband?

25          A   Oh, I think, if I remember, I -- 2019 or

1 somewhere in that session, I think. Maybe 2020  
2 with COVID on top of the -- kind of the discontent  
3 that had unfolded and the retirement plans of our  
4 long term dominant leader kind of -- I -- I think  
5 it was, you know, somewhere in the '19, '20 era.

6 Q Who was the long term dominant leader that  
7 you just mentioned?

8 A A man named Ron Kinney. Ron Kinney --  
9 Kinney, K-i-n-n-e-y -- from Springfield, Missouri.

10 Q Okay. And then who is this Kathi Harness?

11 A Kathi Harness is the lobbyist that I've  
12 known for 30 years or so that worked --  
13 represented MO AMOA when it existed.

14 Q And did -- I -- I assume -- well, let me  
15 go back. Strike that.

16 I -- I assume Kathi Harness is a  
17 registered lobbyist in the state of Missouri at  
18 that time at least?

19 A Yes. And still is to my knowledge.

20 Q Okay. Do you still work with Kathi  
21 Harness?

22 A I do.

23 Q Is she retained as TNT's lobbyist  
24 presently still?

25 A No. I have a company called Promotional



1 Services that I -- I keep her on a small retainer,  
2 just to kind of be a lookout, so to speak, for our  
3 interests. Promotional Services is my -- our --  
4 our dart league program that -- that I run and I  
5 own that is -- is -- it doesn't own any equipment,  
6 but we promote the sport of soft tip darts, which  
7 is owned by TNT, but we have separate -- we keep  
8 it separate because we have other people that we  
9 work with and promote the -- the sport of soft tip  
10 darts for as well.

11 Q And what -- what was the name of that  
12 company again?

13 A Promotional Services, Inc.

14 Q Okay. So is Promotional Services, Inc.,  
15 its operation, limited exclusively to dartboard  
16 dart leagues?

17 COURT REPORTER: I'm sorry. You cut out.

18 Q (By Mr. Craig) Yeah. Is Promotional  
19 Services, Inc., its business and operations, are  
20 they entirely limited to just promoting soft tip  
21 dart leagues?

22 A And tournaments. Leagues and tournaments.

23 Q So I guess -- well, why would Promotional  
24 Services league -- Promotional Services, Inc.,  
25 need a -- a lobbyist on its -- on its team like

1 Kathi Harness?

2 A The same as any other business or  
3 activity. If -- if you are concerned about,  
4 perhaps, you know, legislation or something  
5 popping up that could affect you or impact your  
6 business interests, then you -- you'll want to  
7 know, and you'll want to be in a position to,  
8 hopefully, complain to the right people or beg the  
9 right people to help solve the problem before it  
10 gets worse, something to that effect.

11 Q And in this case -- in this case, you --  
12 you allege that so TNT's devices harm your  
13 amusement business by allegedly removing  
14 dartboards. So would, like, a thing like that, a  
15 removal, according to you, of dartboards, you  
16 know, related to Torch or Torch-type devices,  
17 would that be something that Kathi Harness would  
18 be looking into for you for her work with  
19 Promotional Services, Inc., any legislation that  
20 might impact --

21 A I --

22 MR. FINNERAN: Hold on. Let me -- let me  
23 jump in. Objection. Vague. I -- I think --  
24 Aaron, at the beginning of your question, I think  
25 you said "TNT" when you meant Torch. So I think

1 your question doesn't make sense.

2 MR. CRAIG: Oh, okay. Well --

3 MR. FINNERAN: You said TNT's devices  
4 compete or something like that. So you may want  
5 to try restating it.

6 MR. CRAIG: Yeah. Let me restate it. It  
7 was -- it was long.

8 Q (By Mr. Craig) Okay. So I think what --  
9 your -- your claim here, and I don't know that I  
10 necessarily agree with it, but, essentially, even  
11 your dartboards compete with Torch devices.  
12 That's your position, as far as this case goes;  
13 right?

14 A In this case meaning this lawsuit that  
15 we're in --

16 Q Correct.

17 A -- with you? Yes. I say that  
18 dartboards --

19 Q I --

20 A -- have been --

21 Q I -- I get -- I -- I don't want to cut you  
22 off, but it's going to be a long day. And -- and  
23 so if -- you said, "yes" and -- and that's --  
24 that's good. And we'll just go a little faster if  
25 kind of the long narrative responses to every

1 question -- like, we will never finish. I'm just  
2 going to tell you. Okay?

3 So, yes, you agree that that is something  
4 that you, for whatever reason, I didn't ask for  
5 the explanation, but that is your position in this  
6 case and that -- you said yes to that. So I think  
7 we can, then, let me ask a new question. Okay?

8 And -- and I'm not trying to be rude. I'm  
9 not. I -- I get it. You -- you want to say  
10 stuff, and there will be times when I will give  
11 you that opportunity, I promise. But I just --  
12 I -- I understand your position. And so that's --  
13 I just wanted to make it clear that we both  
14 understand your position.

15 So what -- I can predict the words that  
16 are going to come out of your mouth because I  
17 think I've heard them either from you or your  
18 counsel. So I don't need to hear them again for  
19 the tenth time. Okay? All right.

20 A Is that a question?

21 Q No. It's -- it's, hopefully, just some  
22 guidance that can help us maybe move through this  
23 thing a little bit quicker.

24 A I -- I'm happy to move as fast as we can,  
25 Aaron.

1           Q   Okay. All right. So we agree that one of  
2           the things that you allege in this case is that  
3           TNT's dartboards compete with Torch devices;  
4           right?

5           A   Yes.

6           Q   Okay. Now, with that said, would it be  
7           fair to say that, then, Promotional Services,  
8           Inc., in retaining Kathi Harness, one thing that  
9           you, as the owner of Promotional Services, Inc.,  
10          would be interested in Kathi doing is both  
11          alerting you to anything that might, you know,  
12          relate to Torch or no chance devices and thus  
13          impact your business vis-a-vis the dart league?

14          MR. FINNERAN: Objection. Vague.

15          But you may answer, if you understand the  
16          question.

17          A   I -- I don't. Are we still talking about  
18          document number four? Or are we -- or are we --  
19          are we off of that and we're talking about in  
20          today's time or 2017's time?

21          Q   (By Mr. Craig) Well, right now. You said  
22          she's still employed as a lobbyist for one of your  
23          entities, Promotional Services, Inc. So I --

24          A   Yeah.

25          Q   I'm asking you.

1           A   Yes.

2           Q   Okay.  And -- and she does that to both  
3   apprise you of any legislation that might involve  
4   Torch or other no chance devices, I assume?

5           A   So -- and I don't mean to have a long  
6   answer.  I don't know of any legislation involving  
7   Torch devices or no chance devices, specifically,  
8   ever.  I don't think there's ever been any.

9           Q   It -- you -- you're not aware of any  
10  proposed legislation that would impact or  
11  change --

12          A   Currently?  Today?

13          Q   You said ever.

14          A   No.  I -- I don't think there has been.  
15  I -- I -- I -- and that's -- that's true.  I --  
16  I -- I said ev- -- ever because I don't think  
17  there has been.  There's been legislation about  
18  adding penalties for operating illegal gambling  
19  devices generally, but I just don't remember if  
20  they specifically carved out or identified Torch  
21  or even the terminology "no chance."  So that's --  
22  that's what I was responding to, that part of your  
23  question.

24          Q   How about any games that have a preview?

25          A   Pre-reveal?  Maybe the --

1 Q Sure.

2 A Maybe the words "pre-reveal" may have been  
3 included in some of the legislation, but that --  
4 that's just my memory. So I don't know if it's  
5 true or not. I don't know.

6 Q Yeah. And -- and -- and as you sit here  
7 today -- go ahead.

8 MR. FINNERAN: Hello? Aaron, can you hear  
9 me?

10 MR. CRAIG: Yeah.

11 MR. FINNERAN: Okay. Sorry. I had some  
12 sort of audio issue a moment ago when a phone call  
13 came in, and I missed the last couple questions.  
14 I just wanted to make sure you guys can hear me.  
15 And I can -- I can hear you again now. So I  
16 apologize. But I -- I -- I don't think there's  
17 anything we need to worry about. I just want to  
18 make sure I didn't lose my audio. So my  
19 apologies.

20 MR. CRAIG: Okay.

21 Q (By Mr. Craig) Yeah. So you're saying  
22 that you -- you may recall some prior proposed  
23 legislation that specifically discussed, like, a  
24 pre-reveal feature that you would find in a Torch  
25 device; correct?

1           A   No.  I think I told you I can't remember  
2   for sure, and I -- I don't remember for sure.  
3   It -- there might've been the words "pre-reveal"  
4   in some proposed legislation, but I don't remember  
5   for sure.  So I -- that's the best I can say.

6           Q   And -- and in your mind, those two things,  
7   you know, Torch and the pre-reveal and any  
8   proposed legislation, you don't -- you don't put  
9   those together?  Is that what --

10          A   No.

11          Q   Okay.

12               MR. FINNERAN:  Aaron, I'm sorry.  Can --  
13   can -- can you hold on for just one second?  
14   Someone keeps calling me, and I keep losing my  
15   audio.  So I'm going to try and switch to my  
16   computer audio, but I just need a second to do  
17   that, if you don't mind.

18               MR. CRAIG:  Okay.  Yeah.  That's fine.

19               MR. FINNERAN:  Sorry about that.

20               MR. CRAIG:  No.  No worries.  Been there.

21               MR. FINNERAN:  I don't know why I'm  
22   getting called four times in -- in a row, but  
23   I'll -- I'll hopefully solve that in a second.  So  
24   hold on.  Let me switch.

25               MR. CRAIG:  Is it an emergency?  Do you



1 need to take -- and I don't just mean a client  
2 that's pesky because that's -- they usually think  
3 it's an emergency, but I usually differ on my  
4 opinion.

5 MR. FINNERAN: So I -- I -- Aaron, I  
6 didn't hear everything you just said. I just -- I  
7 just got my audio reconnected, but I think I heard  
8 you just making a comment. I think we can move on  
9 unless -- unless you need to go back for anything.

10 MR. CRAIG: No. No. I think we're good.  
11 I mean, it's not an emergency; right? That's all  
12 I was asking.

13 MR. FINNERAN: It doesn't look like it.  
14 I'm -- I'm -- I'm going to try and figure it out.  
15 But you guys keep going. I'll tell you if we have  
16 to take a break.

17 MR. CRAIG: Okay.

18 Q (By Mr. Craig) All right. So I'm -- I'm  
19 not saying that there is any current legislation  
20 pending that would impact Torch or no chance or  
21 pre-reveal devices, but I am saying that if there  
22 was something like that that might impact your --  
23 your dart league or, frankly, your, you know,  
24 business at TNT, I assume you would expect that  
25 your lobbyist, Kathi Harness, would tell you about

1       it; right?

2           A   That is the -- the hope.   Yes.

3           Q   And I -- I assume that the flip side of  
4       that, one other reason why somebody hires a  
5       lobbyist would be to lobby in favor or against a  
6       thing that, for whatever reason, you might want or  
7       not want; fair?

8           A   Fair.

9           Q   All right.   And so I would assume that if  
10       there was some current proposed legislation that  
11       bared on Torch devices or similar pre-reveal-type  
12       devices, that you would expect Kathi Harness would  
13       lobby, I assume, against, but either way, for or  
14       against, depending on your position in that  
15       matter, on behalf of Promotional Services and TNT;  
16       right?

17          A   Perhaps, depending on what it is.   It --  
18       you know, hypothetically, yes.

19          Q   Okay.   All right.   And then if we go to  
20       the very first page of this email, now, we're  
21       back, again, looking directly at Exhibit 6.   Let  
22       me know when you're on that first page.

23          A   I -- I'm still there.   You said the first  
24       page?

25          Q   Yep.   The very first page.   Exhibit 6.

1           A    Okay.

2           Q    All right.  So this is an email from  
3                yourself, again, to Dan Brown, and you've copied  
4                daveschatz@- -- you know -- senate.mo.gov.  And  
5                this is dated May 4th, 2017; correct?

6           A    Yes.

7           Q    Okay.  And this appears to be, generally,  
8                a follow-up to your previous two emails to Senator  
9                Brown; correct?

10          A    Appears to be.  Yes.

11          Q    And your first lines there, you say,  
12                "Senator Brown, I was disappointed to hear that  
13                the Missouri Legislature had decided to reward  
14                Diamond Games and the Missouri Lottery's gambling  
15                expansion with full funding of \$4,321,000 in the  
16                2017 budget even though both ignored and  
17                circumvented the legislative process during their  
18                possibly illegal gambling expansion last year."  
19                Did I read that correctly?

20          A    Yes.

21          Q    It's fair to say that at least at this  
22                time, in May 2017, that you believe there was a  
23                decent chance that what Diamond Games and the  
24                Missouri Lottery had done with respect to  
25                expanding the scope of the pull tab games, that we

1 talked about earlier, was possibly illegal  
2 gambling expansion; right?

3 A At that time, yes.

4 Q All right. Now, if you look at the next  
5 document, document five, in your list, that  
6 document has been marked as Exhibit 7 for  
7 identification. Please let me know when you have  
8 that in front of you.

9 A I do.

10 Q Okay. And this document, marked for  
11 identification as Exhibit 7, is an email from  
12 yourself to jasonchipman@house.mo.gov dated  
13 May 4th, 2017; correct?

14 A Yes.

15 Q And it's the same subject line as the  
16 subject line that we just saw in Exhibit 6; right?  
17 Gambling expansion, dash, Missouri Lottery and  
18 Diamond Games; correct?

19 A Yes.

20 Q And I believe that, basically, this is the  
21 same exact -- from scrolling from the bottom up,  
22 this is, basically, the same exact email that you  
23 sent to Senator Brown, except for the very first  
24 line which is addressed to Representative Chipman;  
25 right?

1 A Yes.

2 Q Okay. Who's Representative Chipman?

3 Who's -- who's Jason Chipman?

4 A He was the state representative for my  
5 residency in my office at that time.

6 Q And why were you -- why were you sending  
7 this email to House Member Chipman?

8 A Because he was my state representative at  
9 that time.

10 Q And -- and you just -- you wanted to  
11 express your frustra- -- frustrations that we  
12 already discussed; right?

13 A Yes.

14 Q Okay. All right. I've marked another  
15 exhibit, Exhibit 8, for identification. It should  
16 be document six on your list. And this is an  
17 email from yourself to natetate@house.mo.gov dated  
18 the same date, May 4th, 2017; correct?

19 A Correct.

20 Q With the same subject line and, except for  
21 the word Representative Tate, I believe the same  
22 content as the prior two emails that we just  
23 discussed; right?

24 A It looks the same. Yes.

25 Q So -- so you -- well, who's Nate Tate?

1           A   It looks like he was another House member.  
2           I don't know for which district, but it looks like  
3           he's a House member.

4           Q   So, again, you were just contacting  
5           another member of the Missouri Legislation to  
6           express your displeasure with the goings-on that  
7           we already talked about; right?

8           A   Slightly different. I think that he  
9           probably was in a position of either a budget  
10          committeeman or was somehow involved in the  
11          appropriations and the budget discussions. And I  
12          would've -- otherwise, I probably would've --  
13          would've only sent it to my own local  
14          representatives. And I -- I don't remember what  
15          Nate Tate's position was, but I suspect he was on  
16          one of those committees, more -- more than likely.

17          Q   Why -- why do you think you otherwise  
18          would've just sent it to your own representatives?

19          A   Because that's -- that's what we normally  
20          did. As members of our state association, our  
21          efforts -- when we had something of concern, there  
22          were six directors across the state, and I think,  
23          at the time, maybe 50ish, 50 odd other members,  
24          and we would collectively reach out to our -- each  
25          of our own state Senators and/or House members

1 to -- to -- you know, to inform them, ask them,  
2 however you want to kind of characterize it, of  
3 whatever the problem might be. So that was  
4 typically what I think any association, business  
5 organization probably does.

6 So if I sent it to one that -- that wasn't  
7 my state rep, then I would -- I'm -- I'm ju- --  
8 I'm trying to remember as to kind of how we did  
9 it. You know, the officers and members of the  
10 association or it may have been somebody that was  
11 on a committee that I had talked to previously.

12 But for whatever reason, I sent this --  
13 this same concerning letter to Representative Tate  
14 and -- and I think it was probably because he  
15 might've been on one of those committees, not  
16 one -- not one of my actual local representatives.

17 Q Were you a director of MO AMOA at the  
18 time?

19 A Yes, I would've been a director.

20 Q All right. I've marked another document  
21 for identification as Exhibit 9. And this is a --  
22 well, first of all, do you see what's been marked  
23 as Exhibit 9 for identification?

24 A I do.

25 Q Okay. And this is another email from

1       yourself to a calebjones@governor.mo.gov dated  
2       5/4/2017; correct?

3           A   Yes.

4           Q   Same subject line as the prior three  
5       Exhibits 6, 7, and 8 that we just talked about;  
6       right?

7           A   Yes.

8           Q   I think the content's a little bit  
9       different, at least the first opening paragraph;  
10      agree?

11          A   Agreed.

12          Q   Okay.  Who's Caleb Jones?

13          A   I am guessing -- I don't remember exactly  
14      who everybody is.  But by his email address, I'm  
15      guessing he might've been the governor's aide or  
16      in the governor's office.  And me being angry.  I  
17      was reaching out to the governor's office as well,  
18      perhaps, if that's what @governor.mo.gov means.  
19      So I'm guessing Caleb might've been an associate  
20      or -- or a member of the governor's staff.

21          Q   Okay.  And you -- you tell Caleb, "I'm  
22      writing you on this matter because it seems the  
23      Missouri Legislature is about to approve millions  
24      of dollars in funding for a shady gambling  
25      expansion deal between the Missouri Lottery and an



1 out-of-state company, Diamond Games. This  
2 haphazard gaming -- this haphazard gambling  
3 expansion will be a train wreck for my industry  
4 and for Missouri because it will create an unfair  
5 anti-capitalistic environment for thousands of  
6 have-not bars, taverns, and fraternal clubs across  
7 Missouri. Diamond Games --" Well, I'll stop  
8 there. Did I read -- so far, have I read that  
9 correctly?

10 A Yes.

11 Q Okay. What did you mean by "shady  
12 gambling expansion deal"?

13 A If you read the earlier exhibits that we  
14 just went through, I kind of characterize and  
15 explain that that program started out as a pilot.  
16 And it's not my word. That's the word that I  
17 remember being told that the program was which is,  
18 essentially, a test program of the equipment.

19 And my understanding and recollection is  
20 that it had expanded well beyond 100 units, in  
21 fraternal organizations only, to something  
22 approaching 300 units that had popped up in  
23 traditional mom-and-pop bars in Springfield,  
24 Missouri, at that time.

25 And all of our membership became very

1 concerned about what that meant and what was going  
2 to happen next. And so we were trying to make  
3 sure that people knew about our small businesses  
4 and that we were upset that this was something  
5 that was going to and it already was affecting at  
6 least my -- my -- my friend in Springfield. And  
7 he was particularly upset and I was channelling  
8 his upsetness in my letters to my representatives  
9 and the people that we had all agreed to reach out  
10 to. And, apparently, Caleb Jones was one of them.

11 Q And then you go on to say, "Diamond Games  
12 is an out-of-state company and their gambling  
13 machines directly compete with many small  
14 businesses across Missouri, including my small  
15 business where I and my employees provide  
16 amusement games to bars, taverns, and fraternal  
17 clubs." Did I read that correctly?

18 A Yes.

19 Q Okay. Is it true that Diamond Games  
20 competed with your small business?

21 A I'm trying to remember. But I -- I -- if  
22 I said it, then they must've had some in my area  
23 in some of the fraternal clubs that I served at  
24 that time. So if I said it, I feel it must've  
25 been true. So, yes.

1           Q   And then you go on and say, "I was  
2           disappointed to hear that, yesterday, the Missouri  
3           Legislature in Conference Committee has decided to  
4           reward Diamond Games and the Missouri Lottery's  
5           gambling expansion with full funding of more  
6           than -- it's the same. This is the same language  
7           from there on, basically, that we've seen in the  
8           prior three exhibits; correct?

9           A   Appears to be. Yes.

10          Q   Okay. Did you ever get a response from  
11          Caleb Jones?

12          A   I don't think so.

13          Q   Did you ever get a response to your email  
14          shown in Exhibit 8 from Nate Tate?

15          A   I don't -- I don't think so.

16          Q   Did you ever get a response to your email  
17          shown in Exhibit 7 from House Representative Jason  
18          Chipman?

19          A   I think I did.

20          Q   Do you recall what he responded?

21          A   Not off the top of my head. I'm sorry.  
22          I -- I can't remember what was said, but I do know  
23          that I had future conversations, further  
24          conversations with Jason.

25          Q   How about Exhibit 6 to Dan Brown? Did Dan

1 Brown ever respond to the email that we discussed  
2 on Exhibit 6?

3 A When you say "response," do you mean an  
4 email response or do you mean did we have  
5 conversations later?

6 Q Yeah. Let's start with email response.  
7 So directly, you know, to -- in response to your  
8 email.

9 A I don't think so, because if I did you  
10 would've -- I assume it would've been also  
11 provided through discovery. So my recollection is  
12 there was no email responses, but there were  
13 probably follow-ups with some of these folks in  
14 later visits to Jefferson City when -- when we  
15 would go and talk to them about, you know, what's  
16 happening next or what transpired in between, that  
17 sort of thing. Does that make sense?

18 Q Yes. Do you recall any of those specific  
19 occasions where you did, then, speak to Dan Brown  
20 about something that's in this email?

21 A Gosh. It -- it's -- I -- I can't say that  
22 I recall specifically, no. But I -- I recall  
23 other conversations and future trips because I  
24 continued to go to Jeff City on behalf of my state  
25 association and meet with people on this concern

1 and others, you know. So there had to be, but,  
2 specifically, I -- Aaron, I'm sorry. I can't  
3 account -- you know, pull up exactly what, you  
4 know --

5 Q Yeah.

6 A -- when, where, and how they all fit  
7 together in my --

8 Q I get that. But -- but you do believe  
9 that sometime after this, you had further  
10 interactions with Dan Brown?

11 A I -- I do. Yes.

12 Q Okay. What in the world? All right. I'm  
13 showing another exhibit that has been marked as  
14 Exhibit 10 for identification, which you should  
15 see as an email from, at the top, Kathi Harness to  
16 yourself sent 8/28/2018. Do you see that?

17 A I do.

18 Q Now, if you look at Kathi's email to you  
19 and others -- well, first of all, let's talk about  
20 the others. So Kathi's email is not just sent to  
21 you. It's also sent to a tomcobb@acmemusic.us and  
22 a Scott Swain at swaingroup.biz; correct?

23 A Yes.

24 Q Who is Tom Cobb?

25 A Tom Cobb is a fellow association member at

1 that time and a -- a -- a friend of mine, also  
2 owns an amusement business similar to Play-Mor  
3 Coin-Op.

4 Q Where's his business located?

5 A Saint Joseph, Missouri.

6 Q Was he a director in MO AMOA at the time?

7 A Yes.

8 Q How long had -- had you known Tom Cobb at  
9 this point in time in 2018?

10 A Twenty-five years or more.

11 Q And then Scott Swain. Who's Scott --  
12 who's Scott Swain?

13 A Scott Swain is a lobbyist associate of  
14 Kathi's.

15 Q Swaingroup.biz. Is that also Kathi  
16 Harness's group or is he --

17 A No. I -- I -- I -- no. I think they're  
18 separate.

19 Q Okay. So he's a separate lobbyist from  
20 Kathi Harness?

21 A Yeah. I think they're separate -- they're  
22 separate lobbyists, separate people. They  
23 don't --

24 Q And do you know why Scott Swain is on this  
25 email?

1           A   At this point in time, I think he was on  
2   board to help us. I think things had evolved  
3   during the months between this and when we had  
4   gotten upset about what the lottery was doing.  
5   And there were conversations beginning of what  
6   could the Missouri Amusement Machine Operators  
7   Association members -- what could our members do  
8   to work with the lottery instead of being beat up  
9   by the lottery or, you know, Diamond Games and the  
10  lottery's project.

11           Q   And she -- so Kathi -- going to the  
12  subject content, she's got next steps of what  
13  she's doing, but then she gets into the  
14  discussion. There's an attachment called "Letter  
15  to Herschend.docx." It's d-o-c-x at the top. Do  
16  you see that?

17           A   Yeah.

18           Q   Who's Hershend?

19           A   Peter Hershend is the owner of Silver  
20  Dollar City.

21           Q   And why would you and other members of MO  
22  AMOA and your lobbyist be drafting a letter to the  
23  owner of Silver Dollar City?

24           A   Because by this time, which was -- I think  
25  this is, what, a year and a half later from the

1 point where we were upset with what Diamond Games  
2 and the lottery were doing to where we were  
3 talking with them about ways that we could be --  
4 our association, our membership, could become  
5 involved with or become a part of something with  
6 Diamond Games and the lottery instead of being on  
7 the wrong end of that.

8 And Peter Herschend also has a lobbyist.  
9 And I don't remember who it is. He is very  
10 conservative and very much opposed to any  
11 expansion of gambling at all in Missouri. And by  
12 this point, the conversation had turned to, well,  
13 if we could be involved, there would have to be  
14 enough pull tab machines with the lottery that our  
15 members could help to service to make -- to make  
16 money and not be on the wrong end of -- of the  
17 expansion.

18 So there was a discussion about would he  
19 support the expansion that would enable this to be  
20 a viable project for our Missouri AMOA members and  
21 the lottery and Diamond Games. So -- so I think  
22 this was Kathi's kind of framing up what we could  
23 do into 20- -- into the 2018/2019 legislative  
24 session to find out -- to find out what we could  
25 maybe do.



1           Q   Why would the owner of Silver Dollar City  
2           be an integral part of that plan?  And I'm asking  
3           just because, you know, as a long time season pass  
4           member down there, I don't remember seeing any  
5           sort of, you know, pull tab machines or electronic  
6           gaming-type machines anywhere in Silver Dollar  
7           City.  So I'm -- I'm a little confused why you're  
8           emailing him.

9           MR. FINNERAN:  Aaron?  Sorry.  I'm not  
10          sure if Jim could hear you, but at least the  
11          beginning of your question broke up for me.  I  
12          don't know if the court reporter heard it and  
13          could read it back, otherwise, maybe you could  
14          repeat it.

15          Q   (By Mr. Craig)  Yeah.  Yeah.  I guess  
16          my -- my question -- and it's just because I -- I  
17          don't know.  But my question would be why would  
18          the owner of Silver Dollar City be an integral  
19          part of this, I guess, new -- new -- turning over  
20          a new leaf?  And -- and that's me asking just  
21          because as a long time season pass holder of  
22          Silver Dollar City, I've never seen pull tabs  
23          there or electronic gaming devices.  So I -- I  
24          just -- I was hoping you could explain for me how  
25          the owner of Silver Dollar City would be relevant

1 to this conversation.

2 A Okay.

3 THE WITNESS: Any objections to that,  
4 Rich? I just --

5 MR. FINNERAN: No -- no -- no objection.  
6 I just couldn't -- I didn't hear the question  
7 initially --

8 THE WITNESS: Okay.

9 MR. FINNERAN: -- because it broke up.  
10 But you can go ahead, Jim.

11 THE WITNESS: Okay.

12 A My recollection, Aaron -- and I don't want  
13 to give you too long of an answer and -- and we're  
14 kind of getting off --

15 Q (By Mr. Craig) Well, I asked for it. I  
16 asked for it.

17 A Good.

18 Q It's on me.

19 A You asked for it. So here you go. If  
20 you -- you might remember in that area, there was  
21 a casino proposed on one of the lakes down there,  
22 near Lake Taneyco- -- somewhere. I don't remember  
23 where. Branson area. A Branson area casino  
24 was -- was being discussed. I think it was maybe  
25 even on the ballot or something. And -- and Peter

1       Herschend, basically, single-handedly said, "We're  
2       not doing that." And -- and I think there was TV  
3       ads and things like that going on. And so he was  
4       viewed as a -- a very engaged party with a lot of  
5       power because he, you know, can afford it. He  
6       donated a lot more money than old Jim Turntine  
7       could afford to donate to anybody.

8               And so I think we were concerned that if  
9       we're going to go down this path and try to figure  
10      out a way that we could do something with -- with  
11      our membership for our -- for our little mom and  
12      pop Missouri Amusement Machine Operators  
13      Association members, one of the best guys that we  
14      could get on our side to help, you know, sell that  
15      to the legislature would be somebody like Peter  
16      Herschend. And I -- I -- that's my recollection  
17      and why -- why he would've been important to have  
18      educated and informed and -- and, hopefully, on  
19      our side. I don't think we ever got that done.  
20      But I think at this point in the process, that's  
21      why he's being talked about. Okay?

22             Q   Got it. So I -- and -- and I think what I  
23      hear you're saying -- you saying is that you knew  
24      that to have an -- have any real hope of this  
25      going forward -- well, let's put it this way. I

1 think what I heard you saying was without Peter's  
2 stamp of approval, he would be a very powerful  
3 opponent against any plan that, you know, the  
4 members in MO AMOA might have to combine forces on  
5 this new venture; right?

6 A That's similar to what I said. Yes.

7 Q Okay. And so I think you said this is --  
8 this is forward -- fast-forwarding in time into  
9 the next year from the documents that we  
10 previously looked at when you were, you know,  
11 talking about Diamond Games and this expansion.

12 And, I mean, would it be fair to say that,  
13 basically, by this point, you were considering  
14 sort of if we can't beat 'em, let's join 'em type  
15 strategy?

16 A That's probably a fair way to describe it.

17 Q So it looked like at this time there was a  
18 good chance that whatever your legislative efforts  
19 would be to stop this expansion by the Missouri  
20 Lottery and Diamond Games, that it was more likely  
21 than not it was going to happen whether you liked  
22 it or not; right?

23 A I'm sorry. You'll have to repeat that  
24 question. I -- I don't --

25 Q Yeah. It may not have been -- it may

1 not -- it may not have been a perfect question.  
2 But by this point in 2018, would it be fair to say  
3 that you and other members had, basically, come to  
4 the realization that it was more likely than not  
5 whatever your efforts would be to shut this  
6 program down would likely fail? So it would be  
7 more beneficial for the members to find a way to  
8 inject themselves into that process so that, then,  
9 they could benefit as well?

10 A Well, I'd like to say you're right and  
11 that I agree and keep it short, but I can't. It's  
12 very --

13 Q Okay.

14 A This was an unfolding situation that we  
15 were against it whenever we couldn't be even  
16 considered as having some sort of a future with it  
17 and that it was going to hurt our businesses. But  
18 by this point, we had turned the corner and  
19 were -- were looking at how can we be a part of  
20 it.

21 And I think, by August of 2018, when you  
22 say we couldn't shut it down, I think we had shut  
23 it down. I think we actually had lobbied through  
24 the 2017/2018 session against it, following up on  
25 my anger of what happened earlier in 2017, which

1 would've been the end of the 2015/2016 session,  
2 right, or -- yeah.

3 So I believe, if my recollection serves,  
4 that during the 2017/2018 session, we had -- we  
5 were able to successfully lobby as an organization  
6 to reduce the numbers down to 215 machines.  
7 That's -- that's what I believe happened, which  
8 was -- and also restricted to fraternal  
9 organizations again so that they were removed from  
10 some of the higher earning bars and taverns in  
11 Springfield where my friend Ron Kinney had been  
12 affected.

13 And so, otherwise, by then, we wouldn't  
14 have had a concern about what Diamond Games lobby  
15 is. We were -- we were by at this point in some  
16 sort of conversations with Diamond Games about,  
17 okay. Yeah. Maybe we could work together. And  
18 everybody was talking about, well, how -- how does  
19 that work and what do we -- what can we maybe do?

20 But we also knew that 215 machines wasn't  
21 going to be enough to -- to make sense out of it  
22 for 50 members or even five members across the  
23 state of Missouri to -- to be involved in  
24 servicing or making repairs or -- or delivering.

25 And that was the concept, as I recollect,

1       that we could just be involved. We're already in  
2       these areas. We have personnel. We have  
3       equipment. We have capabilities and experience in  
4       repairing or installing, you know, any kind of  
5       electronic device, you know, not much different  
6       than a -- a -- a jukebox or a -- a -- you know, a  
7       golf game or what have you, you know.

8               So -- so I think that's where we were  
9       in -- in this time era and summarizes our --  
10      our -- our strategy or our feelings about what we  
11      could accomplish and -- and why we would want  
12      someone like Peter Herschend, again, to become  
13      aware and -- and support us if -- if we could do  
14      that. And I don't think we ever got that done,  
15      but I think that's where we were in the process of  
16      that. Okay?

17             Q   Yep. All right. We're going to look at  
18      what's been marked as Exhibit 11 for  
19      identification. Okay. This is an email chain.  
20      It starts at the top, just to identify it, as an  
21      email from yourself, dated October 22nd, 2018, to  
22      Kathi Harness, Tom Cobb, and Tom Newman, and Ron  
23      Kinney; correct?

24             A   That's what it looks like. Yes.

25             Q   Okay. So there's a new player here, Tom

1 Newman, at tcmax.net. Can you tell me who Tom --  
2 Tom Newman is?

3 A Tom Newman is another member of that state  
4 association at the time and a director from Poplar  
5 Bluff, Missouri.

6 Q Oh, was he -- so he was a director in MO  
7 AMOA?

8 A I believe -- yeah.

9 Q If you go down to the bottom of Page 1  
10 where there's an email from a Charles Smarr --  
11 that's S-m-a-r-r for the court reporter -- to  
12 Kathi Harness and Brad Bates. Do you see that?

13 A I do.

14 Q Okay. Do you know -- do you know who Brad  
15 Bates is?

16 A No. I mean, not personally.

17 Q Do you know generally who he is?

18 A Well, reading the email and refreshing my  
19 memory on what this says, I'm sure it would help  
20 me to understand. But since you were talking  
21 while I was looking, I'm not there yet. Do you  
22 want me to take a few minutes to review it so I  
23 can figure that out?

24 Q I don't -- I mean, it -- his -- his email  
25 address is mobeer.org. Does that help? I don't



1 know that he's addressed more specifically. You  
2 don't recognize him as a member of MO AMOA?

3 A No.

4 Q Okay.

5 A But -- but up above it -- it says, "The  
6 information below is from the attorney who does  
7 work for the Missouri Beer Wholesalers  
8 Association, Kathi." So I assume, now, that Brad  
9 Bates is either the director or the representative  
10 of that association. So that -- that's what I  
11 deduce from reading a little bit of it.

12 Q I mean, yeah, it would make sense he's --  
13 he's somewhere in the beer industry, given his --  
14 his email address, but I -- I'm not sure his --  
15 when Kathi forwards that, like you said, the  
16 information below is from an attorney. I think  
17 she's meaning Char- -- Charles Smarr, but that  
18 would be my next question. Do you know who  
19 Charles Smarr is?

20 A No. But this seems to indicate he's the  
21 attorney for that association.

22 Q Okay. That -- I -- I will agree with you  
23 on that. I think that's right. But that's fine.  
24 I'm not holding you to it. But I'm just curious.

25 A That's fine.

1           Q   And then at the -- so if we go back to the  
2           top email, there's -- just, I guess, fair to say  
3           there's a discussion about the alcohol -- well,  
4           what -- what's the ATC? Do you know what the ATC  
5           is?

6           A   ATC is what I always called liquor  
7           control, but I think it -- their official is  
8           alcohol tobacco control I think is what ATC stands  
9           for.

10          Q   And there's -- there's a discussion about  
11          the ATC in that first email on October 21st from  
12          Charles Smarr to your lobbyist, Kathi Harness,  
13          where Charles says -- and I'm skipping down to  
14          about the middle. "It has been ATC's practice for  
15          about 15 years to only take action against a  
16          licensee for gambling or gambling devices if local  
17          law enforcement/highway patrol gets a criminal  
18          conviction for gambling or gambling devices on the  
19          license permit.

20          'After a gambling -- after a criminal  
21          gambling case conviction is made, ATC then  
22          prepares a violation report against the licensee  
23          for violation of" and he continues. I guess why  
24          was -- do you know why this information was being  
25          forwarded to you and other members of MO AMOA?

1           A Well, it's -- it's certainly relevant to  
2 all the things we've been talking about and even  
3 this case. It -- it's -- it's -- apparently, an  
4 official change is underway. And the ATC's  
5 position -- which traditionally, they were -- they  
6 had agents on the street when I first got in  
7 business back in the late '80s and through the  
8 '90s, and they were really the enforcement of all  
9 the laws in bars and taverns.

10           But somewhere in the earlier 2000s or  
11 maybe around the tens or the teens -- I -- I don't  
12 remember, but I know that their budget was cut and  
13 their agents on the street were reduced. And then  
14 by this point, in 2018, it looks like, among  
15 other -- maybe other things that were going on,  
16 I -- I don't know, but this seems to be saying  
17 they're going to change their -- reduce their  
18 authority to enforce the gambling on premises  
19 of -- of -- of liquor license holders. And given  
20 everything else that was going on, that was a  
21 concern.

22           Q So would it be fair to say that around  
23 this time, you were generally aware that the ATC  
24 had regulatory, you know, supervisory powers to  
25 some degree over the, you know, liquor

1 license-type entities that it governed, I guess?

2 A Yeah. They always had, Aaron. They --  
3 they had for decades. And I think even the  
4 content of the -- I'm just trying to browse in it  
5 while you were talking. It says they had gotten  
6 out of it. So how do you just get out of  
7 something as an agency? I -- I don't know how  
8 that worked but -- but that's kind of why we're in  
9 this case too because agencies seem to just decide  
10 from one day to the next what -- what they're  
11 going to enforce and what they're not. But in  
12 this case, that -- that all is -- was of concern  
13 then and would be of concern today the same.

14 Q And based on -- I mean, based on this  
15 email that you received in October of 2018, at  
16 least in that time -- at that point in time, you  
17 know, you had an opportunity to at least read  
18 this, whether or not you agreed with the practice  
19 or the statement, I guess, but you had had an  
20 opportunity to -- to read this email stating that  
21 it's been an ATC practice for about 15 years to  
22 only take action against its licensees for  
23 gambling or gambling devices if it had a criminal  
24 conviction for gambling or gambling devices on  
25 that premises; right?

1           A   What's your question?

2           Q   Yeah.  I mean, at -- at this point, you  
3           were aware that it was the ATC's position that  
4           even though it regulated these entities and could  
5           potentially pull their license if it found what it  
6           believed to be gambling -- you know, illegal  
7           gambling devices, it was the ATC's position, at  
8           least according to Charles Smarr, that for some  
9           period of, like, 15 years, that they would not do  
10          that unless they had a criminal gambling  
11          conviction for the licensee; right?

12          A   Am I agreeing that that's what Charles is  
13          saying in this letter or am I agreeing with that's  
14          what was happening in reality?  I -- I'm sorry.  I  
15          really don't know what you're asking me.  Which --  
16          which -- which -- can you help me understand?

17          Q   Yeah.  That -- that -- that is something  
18          that you had read in October of 2018 at least,  
19          based on this email; right?

20          A   It's part of the -- this letter.  Yes.

21          Q   And you don't deny that you read it  
22          because you responded.  Well, you don't deny that  
23          you read it; right?

24          A   No.  I -- I -- I had to have read it.  
25          That -- that particular part may not have been the

1 most concerning part for me. So I may not have  
2 really absorbed it or recollect that as being the  
3 biggest concern, as far as what Charles Smarr is  
4 saying had been happening versus what was getting  
5 ready to happen versus what was really happening  
6 in -- to my knowledge anyway. They're all  
7 different things but --

8 Q Well, and my point --

9 A -- to answer your question --

10 Q Yeah.

11 A I can answer you're -- go ahead. I'm  
12 sorry.

13 Q I -- I don't want to -- I didn't mean to  
14 interrupt you. I just -- I -- I think would it be  
15 fair to say that at this point in time, you were  
16 aware that the ATC, in order to move forward on  
17 what they believed to be illegal gambling at a  
18 ATC-licensed establishment, required a criminal  
19 gambling conviction before it would take action as  
20 far as the ATC's regulatory policy?

21 A I'm not going to say I was aware of it.  
22 I -- I -- I don't believe that I really was. I  
23 think what I read was probably the first sentence  
24 or the first paragraph talking about they were  
25 getting ready to amend -- amend to where they

1 don't have authority. And that probably alerted  
2 me, and I probably stopped reading or may not  
3 really have comprehended much more after that  
4 because it was almost irrelevant to me.

5 My concern was there's not enough happen  
6 already, and they're going to -- they're going to  
7 amend the rules or -- or arbitrarily here change  
8 what they've been doing. So I can't say that I  
9 comprehended it or that I read it and I really  
10 understood all that Charles Smarr is claiming in  
11 his letter or that I even agree with it, to be  
12 honest with you --

13 Q Yeah.

14 A -- because I don't know that he knew  
15 exactly what was going on in -- in the real world  
16 on the street with -- with my customers and -- and  
17 locations of other Missouri AMOA members across  
18 the state. I'm not trying to be difficult. I'm  
19 sorry.

20 Q Oh, I get it. That -- I --

21 A But it -- it -- it --

22 Q -- I understand.

23 A Okay. Thank you.

24 Q Yeah. And I think -- I think -- so I  
25 think what I hear you saying is even at this time,

1 before you heard about maybe some new regulatory  
2 changes to further decrease the agency's  
3 willingness or ability to, you know, somehow  
4 sanction or, you know, penalize their licensees  
5 for what you believed to be illegal gambling  
6 devices on the premises, you were already  
7 frustrated with their lack of willingness to jump  
8 in and do that before this proposed change; right?

9 A I was frustrated with all the agencies  
10 that have -- have told me one thing and then were  
11 doing another. I guess you could say it that way.  
12 So I don't know that I was any more frustrated  
13 with the ATC than I was, you know, the gaming  
14 commission or anybody else, because over my  
15 career, I have been told in meetings with various  
16 agencies -- at times, it was liquor control. At  
17 times, it was on the street with a liquor control  
18 agent in one of my taverns back in the '90s or  
19 back in the early 2000s -- that, hey, here's what  
20 you've got to do. Here's the rules. And this  
21 is -- you know, I'm telling you this, and that's  
22 what you need to do.

23 And so when those things changed, either  
24 arbitrarily or just because I don't even why,  
25 yeah. I'm frustrated by that, whether it would be



1       ATC or anybody else, because it's, like, I just  
2       want to play by the rules and I want to play by  
3       the same rules as everybody else.

4               And if I've been told the rules are one  
5       thing and all of a sudden one of the agencies that  
6       are enforcing those rules is arbitrarily going to  
7       amend their regulations and say they're not going  
8       to do something, now what -- what do I do? What  
9       do I tell my customers? What do I tell my  
10      employees? How do I continue my business? So  
11      this is a problem. I'm concerned. That -- that's  
12      how I think I'm responding to what was happening  
13      on that day.

14             Q   Yeah. Right. And that seems to be Kathi  
15      Harness's reaction too when she says "This needs  
16      to be prevented"; right? I mean, it seems like  
17      you too were, basically, on the same page; right?

18             A   Yeah. And that led me into saying this is  
19      not good at all. Yeah.

20             Q   I'm sorry. This was from you. I think  
21      maybe I represented that was Kathi Harness's  
22      words. But that was you saying, "This --

23             A   Yeah.

24             Q   -- needs to be prevented"; correct?

25             A   Yeah. Yeah.

1 Q Okay. And then the next line, you say,  
2 "But at some point in the near 'fireweed,' we need  
3 ATC." Was that supposed to be "future"?

4 A I would suspect that was a typo that  
5 should've said "future."

6 Q Okay. "We will need ATC to help entice  
7 retailers to rid themselves of illegal gambling  
8 devices because local law enforcement never will.  
9 Gaming and state patrol won't act without local  
10 law enfor- -- enforcement requests which will not  
11 happen consistently statewide as we'll need. ATC  
12 is our best chance when the timing makes sense."  
13 Okay. Did I read that correctly?

14 A I think so. Yes.

15 Q I -- I take it you were also frustrated at  
16 this point in time with the lack of willingness or  
17 desire on behalf of local law enforcement to get  
18 involved in what you saw as illegal gambling  
19 devices, such as Torch devices, in the  
20 marketplace?

21 A Maybe, but I also might've been referring  
22 to the context of what this Charles Smarr said,  
23 because I think he said that, or he made mention  
24 of local law enforcement and highway patrol  
25 getting a criminal conviction. So I think I was

1       responding to that part of his comments, perhaps.  
2       But, shoot. I can't remember exactly, you know,  
3       how I felt and what I was saying. But, obviously,  
4       I was agreeing with this was a concern, pretty --  
5       pretty --

6           Q   What did you mean when you said, "ATC is  
7       our best chance when the timing makes sense"?  
8       What about -- what were you talking about "when  
9       the timing makes sense"?

10          A   Well, whenever we could -- whenever we  
11       could meet with them and -- and have some  
12       influence over whatever they were talking about  
13       here. That's --

14          Q   Did that ever happen?

15          A   You know, I don't remember. I -- I -- I  
16       think -- and perhaps maybe -- again, I'm -- I'm  
17       working on a memory here. I -- I don't -- if  
18       there was anything else in writing, I would  
19       suspect it would be included with this. But we  
20       may have met with them in Jeff City at a later  
21       date or we may have figured out that it doesn't  
22       matter. They're not doing anything and haven't  
23       done anything and they don't have a budget. They  
24       don't have any manpower.

25                So it may have been I read this all wrong

1 and was concerned about it more than I should've  
2 been because, ultimately, it was moot, if they  
3 weren't able to do anything with no manpower  
4 anyway. And that happens.

5 I'm not perfect. I -- I -- I'm emotional  
6 sometimes in my business and respond in an email  
7 way that, like, gosh darn it, this is just another  
8 stab in the back sort of moment, you know. So I  
9 don't think so, Aaron, but I -- you know, I -- I  
10 don't remember.

11 Q Do you know if -- these changes and/or  
12 amendments proposed to this regulation 111 CSR  
13 70-2.140, do you -- do you know if that ever  
14 passed?

15 A I don't know.

16 Q Okay.

17 A Sitting here today, I don't know. If --  
18 if I do know, then it -- it's -- it wasn't  
19 important enough for me to remember.

20 Q Okay.

21 MR. CRAIG: We've been going for quite a  
22 long time. I think this -- would it be nice to  
23 have a break? I think it would be nice for me to  
24 have a break. Anybody else feel that way?

25 THE WITNESS: I'm -- I'm fine, but if you

1       need a break, I -- I understand.

2               MR. CRAIG: Yeah. Let's take -- let's  
3 take five. I need to get some more water and use  
4 the restroom. Do you want to take five?

5               THE WITNESS: Sure.

6               MR. FINNERAN: That sounds good. Do we  
7 have the ability to go to the break-out room in  
8 this Zoom or do -- do you know if the court  
9 reporter can do that for us? Or, otherwise, we  
10 can --

11              MR. CRAIG: No. I don't --

12              VIDEOGRAPHER: This is the videographer.  
13 I can do that. We're going off the record. The  
14 time is 11:06 AM.

15              (Off the record 11:06 to 11:28.)

16              VIDEOGRAPHER: We are back on the record  
17 at 11:28 AM.

18              Q (By Mr. Craig) All right. I'm putting  
19 another exhibit in front of you that has been  
20 marked Deposition Exhibit 12 for identification.  
21 I'm going to move that sticker. Do you see the  
22 document?

23              A Yes, I do.

24              Q All right. So Deposition Exhibit 11 for  
25 identification is an email from Kathi Harness to

1 Jim Turntine, Tim Cobb, cc to Scott Swain, and  
2 Jonathan F. Dalton at armstrongteasdale.com;  
3 correct?

4 A Correct.

5 Q Who -- do you know why Jonathon Dalton  
6 from Armstrong Teasdale is a recipient?

7 A He is an attorney that I think was helping  
8 us -- well, I know he was helping us with  
9 structuring how might we -- how we could be  
10 involved as a group, the Missouri Amusement  
11 Machine Operators members, with Diamond Game and  
12 the lottery, if that --

13 Q Yeah. I don't -- that -- I don't need  
14 any -- yeah. I don't --

15 A Okay.

16 Q -- need details. That's fine. I just  
17 generally wanted to know. Okay. Let's see.  
18 Where do I want to start this? So if we go down  
19 to the email that was forwarded to Kathi at the  
20 bottom of Page 1, that's an email from Andy Arnold  
21 to Kathi Harness, dated October 24th, 2018, with  
22 the subject line "correspondence in support of  
23 illegal gaming machines popping up." Do you see  
24 that?

25 A I do.

1 Q Can you tell me who Andy Arnold is?

2 A Andy Arnold is a lobbyist in Jefferson  
3 City, does not work for our association, but he's  
4 another associate of -- of Kathi's as, I guess,  
5 all the lobbyists there would in one way or  
6 another, you know, communicate between themselves.

7 Q Okay. And he says, "Kathi, attached are  
8 two correspondence we spoke about. One you  
9 mentioned is -- is a letter from an attorney,  
10 Benjamin -- sorry -- Ben Gray, in Kirksville,  
11 Missouri, to Adair County Prosecutor Matt Wilson  
12 and the other one an email from Phelps County  
13 Prosecutor Brendon Fox"; right?

14 A I see that.

15 Q And then if we go down and we look at  
16 those attachments, let's start at the -- the  
17 bottom. So Page 6, I think. Yeah. Page 6 is the  
18 attachment, which is Brendon Fox, his email;  
19 right?

20 A I see it.

21 Q Okay. And -- and at the bottom,  
22 Brendon -- Brendon Fox says that he's a  
23 prosecuting attorney for Phelps County in  
24 Missouri; correct?

25 A That's what he said. Yeah.

1           Q   And I -- I -- you have no reason to  
2   dispute that he was, in fact, the Phelps County  
3   prosecutor at this time; right?

4           A   As far as I know.

5           Q   Do you know is he still the Phelps County  
6   prosecutor?

7           A   I don't know.

8           Q   Okay. And do you know any of the people  
9   that Brendon Fox sent this email to?

10          A   No.

11          Q   Okay. And Brendon Fox, Prosecuting  
12   Attorney for Phelps County, Missouri, says,  
13   "Gentlemen, it was brought to my attention that  
14   Torch Electronics, LLC, hereinafter Torch, has  
15   recently installed several game machines at gas  
16   stations, restaurants, and bars throughout the  
17   county. I know some of you may have concerns that  
18   the machines are illegal gambling machines;  
19   however, I have researched the issue and am of the  
20   opinion that they are, in fact, legal. I have  
21   advised Torch that I would not be prosecuting them  
22   for any of their gaming systems located in Phelps  
23   County." Did I read that correctly?

24          A   You did.

25          Q   And then he says, "If any of you have any



1 questions, please don't hesitate to ask." Do you  
2 see that?

3 A I see that.

4 Q Did you ever have any subsequent  
5 conversations with Brendon Fox about Torch devices  
6 or his opinion here that Torch devices operate in  
7 a manner that makes them legal under Missouri law?

8 A I do not recall any conversations with  
9 Brendon -- Brendon Fox.

10 Q You don't deny that you saw this -- this  
11 email and the attachments sometime around  
12 October of 2018; right?

13 A I do not deny that I remember seeing this  
14 email in 2018.

15 Q Now, I mean, do you -- I mean, is it your  
16 opinion that Attorney Brendon Fox just doesn't  
17 know what he's talking about when it comes to how  
18 Torch devices operate and how Missouri's gambling  
19 laws should be enforced in his county?

20 A That's --

21 MR. FINNERAN: Hold -- hold on. Hold on.  
22 Objection. Calls for a legal conclusion.

23 But, Jim, you may answer.

24 A I'm of the opinion that Brendon Fox is  
25 absolutely wrong, was absolutely wrong at that

1 time and would still be today.

2 Q (By Mr. Craig) And -- and you believe  
3 that you're better situated than Brendon Fox to  
4 know and understand what Missouri's criminal  
5 gambling statutes say and how they should be  
6 interpreted?

7 A I believe what I just said. I don't know  
8 how he's situated. I don't know how he came to  
9 his conclusion. I don't know what he had to  
10 support his conclusion. But I believe he's wrong.

11 Q Well, do you believe that he went to law  
12 school?

13 A Well --

14 MR. FINNERAN: Objection. Calls for  
15 speculation. Relevance.

16 You may answer.

17 A Well, I watched a movie where a guy  
18 pretends to be a lawyer for a long time and he  
19 never went to law school. And I -- I -- I assume  
20 he went to law school.

21 Q I seen that too. Leonardo DiCaprio was  
22 great. It's called Catch Me If You Can; right?

23 A Yeah. Yeah. And --

24 Q Yeah. But do you have any reason to  
25 believe that Brendon Fox, who was either appointed

1 or elected as prosecuting attorney for Phelps  
2 County in Missouri, was lying about, you know, the  
3 fact that he went to law school, passed the  
4 Missouri bar, was admitted to the Missouri bar?  
5 Is that what you're saying?

6 A I -- I am not saying any of that. No.  
7 I'm not --

8 Q It seemed like that's what you were  
9 implying, sir.

10 A Well, I apologize if it came off that way.  
11 I thought I was making a -- a reasonable joke  
12 under the circumstances.

13 Q I think it's funny. I do. I -- I get it.

14 A Okay.

15 Q It's a joke.

16 A Okay.

17 Q But for our purposes here, would it be  
18 reasonable to assume that Brendon Fox did, in  
19 fact, go to law school?

20 A Reasonable. Yes.

21 Q And that he graduated from law school?

22 A Maybe barely. I don't know.

23 MR. FINNERAN: Objection. These questions  
24 call for speculation.

25 But you may answer.

1           Q   (By Mr. Craig)   Yeah.   And I assume that  
2   you have no reason, as you sit here today, to  
3   believe that Brendon Fox, you know, has never  
4   passed the Missouri bar?

5           A   As far as I know, he did.

6           Q   Yeah.   And -- and you -- you understand  
7   that that at least requires a -- a degree from a  
8   qualified law school, right, to sit for the bar?  
9   Do you know that?

10           MR. FINNERAN:   Objection.   Calls for a  
11   legal conclusion.

12           But you may answer.

13           A   I believe I understand that to be the  
14   case.   Yes.

15           Q   (By Mr. Craig)   And that, you know, just  
16   passing the bar is not necessarily a -- an -- an  
17   easy task if you -- is that something that you are  
18   generally aware of?

19           MR. FINNERAN:   Same objection.

20           You may answer.

21           A   Generally aware of.   Yes.

22           Q   (By Mr. Craig)   Okay.   And then I -- I  
23   take it that you have no reason to dispute the  
24   fact that Brendon Fox was either appointed or  
25   elected to represent the constituents of Phelps

1 County as Phelps County's designated prosecuting  
2 attorney; right?

3 A I -- you can deduce --

4 MR. FINNERAN: Objection. Calls -- hold  
5 on. Same objection. Calls for speculation.

6 You may answer. And, sorry, Jim, you just  
7 need to pause a little bit for this line of  
8 questioning because I -- I have not had to object  
9 must so far, but, yeah, I may have a few here. So  
10 just -- just if you could pause briefly before you  
11 answer. You may answer the question.

12 A I -- I can deduce those things that you  
13 said, Aaron. I can deduce that. Yes.

14 Q (By Mr. Craig) When I take -- I -- my  
15 question was is as you sit here, you've got no  
16 reason to dispute it; right?

17 MR. FINNERAN: Same objection.

18 You may answer.

19 A I have no reason to dispute it. Right.

20 Q (By Mr. Craig) And just, I mean,  
21 generally, based on your understanding of how, you  
22 know, governance works and the role of county  
23 prosecutors in Missouri, you would, I think, agree  
24 with me that a county prosecutor, like Brendon  
25 Fox, who has been either elected or appointed to

1       that position, would be a person who would have  
2       the responsibility for reading, interpreting, and  
3       enforcing criminal laws and acting upon them  
4       within the scope of that county prosecutor's  
5       jurisdiction; right?

6               MR. FINNERAN:  Objection.  The question's  
7       also a compound question.

8               But you may answer.

9               A  You're -- I apologize.  Say it again,  
10       Aaron.  I -- I don't know what you're asking me  
11       there.

12              Q  (By Mr. Craig)  Yeah.  Generally, just  
13       based on your understanding of how federal --  
14       sorry -- how state county prosecuting attorneys  
15       operate and how they're -- back it up.  You're  
16       generally aware that there are county prosecutors  
17       for every county in the state of Missouri;  
18       correct?

19              A  Yeah.  Yes.

20              Q  And are you aware that one job that the  
21       county prosecutors for every county in the state  
22       of Missouri would be tasked with would be  
23       interpreting and enforcing the criminal laws to  
24       the extent necessary within the jurisdiction that  
25       they cover?

1 MR. FINNERAN: Objection. Calls for a  
2 legal conclusion.

3 But you may answer. You may answer, Jim.

4 A Okay. I'm trying to figure out -- the  
5 question is do I understand he has an obligation  
6 to interpret the laws and enforce them?

7 Q (By Mr. Craig) Right.

8 A Yes, he has an obligation to do that.

9 Q Okay. And you're just saying that you  
10 disagree with how he is interpreting and choosing  
11 to enforce the laws in his particular county,  
12 Phelps County, Missouri?

13 A I disagree with --

14 MR. FINNERAN: Jim. Jim. Jim.

15 THE WITNESS: Sorry.

16 MR. FINNERAN: Excuse me. Same objection.

17 You may answer.

18 A I -- I disagree with his philosophy or his  
19 opinion that he is expressing here, and I think  
20 the context of the entire package that this is an  
21 attachment to does the same thing.

22 Q (By Mr. Craig) Yeah. You're not a  
23 lawyer; right?

24 A No.

25 Q You've never went to law school?

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A No.

Q Never sat for the bar in any state; right?

A Right.

Q You never passed the Missouri bar; right?

A Right.

Q Okay. Yeah. I mean, have you ever sat in  
on any law school courses?

A No.

Q I take it you don't have any certification  
or certificates like a paralegal certificate;  
right?

A No. No. No.

Q Have you had any, you know, didactic  
formal training to help you understand how to read  
and interpret Missouri Statutes?

A I was waiting for Rich, if he was going to  
say something. I don't know what didac- -- I'm --  
what -- what is didactic? Is that the word you  
used? What does that mean?

Q Yeah. It means formal, like in -- in  
the -- in the setting of a university or some  
formal course.

A No.

Q Okay. If you go to Page 4 of 7. Again,  
this is Exhibit 12 for identification. Do you see



1 the attachment that is the letter by Benjamin J.  
2 Gray? Correct?

3 A I see it.

4 Q Okay. Do you know who Benjamin J. Gray  
5 is?

6 A Only by the header on the letter. It says  
7 he's a lawyer.

8 Q Okay. And I take it -- well, I take it  
9 that you would disagree with the opinions that  
10 Benjamin Gray, an attorney at law, arrived at in  
11 this opinion letter. Is that fair?

12 A I haven't read it today. It's a lot  
13 longer letter than the other one. Do you want me  
14 to read it before I -- I -- I -- if -- if he's  
15 coming to the same conclusion as the prosecutor in  
16 Phelps County, then I would disagree with this  
17 lawyer as well.

18 Q Okay. Yes. And I will represent that,  
19 yeah, he -- ultimately, he concludes that based on  
20 his legal analysis and the -- and -- and his legal  
21 opinion is that Torch devices operate in a manner  
22 that they are legal under Missouri law and they  
23 are not gambling devices. And you would disagree  
24 with that legal opinion; correct?

25 MR. FINNERAN: Objection. Calls for a

1 legal conclusion.

2 But you may answer.

3 A I -- I did and I do disagree with his  
4 opinion, as does the majority if -- if not a whole  
5 bunch of other lawyers and law enforcement people  
6 in this state.

7 Q All right. Well, now, you're just  
8 speculating and not mentioning specific people.  
9 So, yeah, that's -- there -- yeah. I -- I agree  
10 that, you know, you disagree. Other people may  
11 disagree. I'm asking you about this one opinion,  
12 and I was specifically asking about your opinion.  
13 So --

14 A Okay. My apologies.

15 Q Right? I'm -- yeah. I think it -- it  
16 would be fair -- fair to say that, you know --  
17 well, that -- that's fine. We'll go -- we'll  
18 go -- we'll go with that.

19 A Okay.

20 Q All right. Now, if we go to Page 1, we go  
21 to the bottom of Page 1, Andy Arnold to Kathi  
22 Harness. We've talked about this one; right?  
23 Well, I -- I mean, we talked about it, and I think  
24 I mentioned that -- to set up the -- he's attached  
25 these two letters that we just talked about;

1 right? We talked about that?

2 A Yes.

3 Q Okay. And then he says, continuing, "As  
4 you can see by the correspondence, the general  
5 belief is that the games attributed to Torch  
6 Electronics that are popping up everywhere are no  
7 chance games because the player can preview the  
8 outcome of the next play, a future event, to see  
9 whether or not they will win a prize." And it is  
10 Andy Arnold's opinion that "this seems to fly in  
11 the face of the definitions in Section 572.010 as  
12 they relate to a contest of chance and gambling  
13 and the Missouri Constitution"; right?

14 A I see that.

15 Q Okay. So you -- you have one champion  
16 here that -- that is not a lawyer who thinks that  
17 these opinions, like you, seem to fly in the face  
18 of Missouri law; right?

19 A Seems to. Yes.

20 Q Okay. And then so going to the top email,  
21 you've got Kathi Harness sending you, Tom Cobb,  
22 and Scott Swain, as well as Jonathan Dalton, the  
23 email and the attachments that Andy Arnold sent  
24 her; correct?

25 A Correct.

1 Q And she says, at one point, "The Phelps  
2 County prosecutor didn't explain his reasoning  
3 that these games are, quote, legal, end quote, but  
4 says he's happy to discuss." Did I read that  
5 correctly?

6 A Where -- where are you? I -- you lost me.

7 Q Yeah. It's the third line down towards  
8 the end of the third line, "the Phelps County  
9 prosecutor." Do you see that?

10 A Third line. Yeah. I see it now.

11 Q So "the Phelps County prosecutor didn't  
12 explain his reasoning that these games are, quote,  
13 legal, end quote, but says he is happy to  
14 discuss." Did I read that correctly?

15 A You do read that correctly. Yes.

16 Q Do you know if Kathi Harness ever took the  
17 Phelps County prosecutor up on his invitation to  
18 discuss his legal opinion?

19 A I know I tried, but I don't know if Kathi  
20 did.

21 Q So you tried to talk to -- to Brandon?

22 A I did.

23 Q And I thought earlier you said that you --  
24 you didn't.

25 A No. I don't -- I -- I didn't talk to him.

1 I tried to talk to him.

2 Q Okay.

3 A He didn't return my call.

4 Q Fair point. So how long after -- after  
5 this did you try to talk to Brendon Fox?

6 A I believe it was in the spring of 2019. I  
7 would say early summer maybe. It wasn't  
8 initia- -- it wasn't around this time in late  
9 2018. It was around -- it was around the time  
10 that my VFW commander, who is in Phelps County --  
11 Saint James, Missouri, is in Phelps County.  
12 And -- and I operated -- our company operated that  
13 Saint James VFW who was impacted by Torch's slot  
14 machines at the gas station just up the road and  
15 one of the slot machines. We talked about that  
16 earlier in the previous deposition.

17 So around that time, I know I called the  
18 Phelps County prosecutor to -- to ask for more  
19 information. He didn't -- he never called me  
20 back, and I left several messages. So he wasn't  
21 really willing to discuss, I think. I think he  
22 might've misspoke in his letter or it wasn't  
23 addressed to me. But, ultimately, he didn't -- he  
24 never called me back, and I -- I feel that says  
25 something about the man too.

1           Q   You -- you would agree that you're  
2   speculating as to why he did or didn't call you  
3   back; right?

4           A   That's all I can do.

5           Q   Are you sure you have the right number?

6           A   Yep.   Yes.

7           Q   How do you know?

8           A   Well, it's -- it's fairly easy to obtain  
9   on Google or calling the courthouse.

10          Q   Okay.

11          A   I -- I forget how I got it, but I -- I  
12   know I -- I called and left a couple of messages  
13   asking to talk to him.

14          Q   All right.   And the VFW that you just  
15   mentioned, was that Nathan Howard's VFW?

16          A   Nathan Howard, yes, the commander of the  
17   VFW, in Saint James, Missouri.

18          Q   Yeah.

19          A   I forget the post number off the top of my  
20   head but --

21          Q   That's fair.

22          A   -- we spoke about that quite a bit  
23   earlier.

24          Q   Yep.   I know what you're talking about.  
25   Do you know if Kathi -- I think you said you're

1 not sure if Kathi Harness ever tried to contact  
2 the Phelps County prosecutor; right?

3 A I do not know. No recollection of her  
4 telling me whether she did or did not.

5 Q And then if we continue into Kathi's  
6 email, six lines down, she says, "I don't know how  
7 the Adair County prosecutor has responded." So I  
8 think she's talking about responded to -- to  
9 Benjamin Gray's email of May 30th, 2018, to the  
10 Adair prosecuting attorney; right?

11 A I see that.

12 Q And she asks you and the other people, "Do  
13 we want Jon to research these matters? One, we  
14 need to be able to explain why these no chance  
15 Torch games are illegal as well as the black  
16 market games. Two, we also need to determine what  
17 the governor's authority is to address these games  
18 and how to proceed." Do you see that?

19 A I do.

20 Q Okay. First of all, she seems to mention  
21 both Torch no chance games as illegal as well as  
22 the black market games. Were -- I mean, when you  
23 guys were talking about these things, is -- was  
24 there -- is there a distinction between those two  
25 black market games versus Torch games or was there

1 a general understanding that Torch games are, in  
2 your MO AMOA parlance, I guess, black market games  
3 as well?

4 A I think what Kathi is referring to -- and  
5 I'm -- I'm basing just off of my reading of it  
6 today -- Torch games -- no chance Torch games were  
7 kind of new to the scene. So I think they were  
8 sort of automatically distinguished as, like,  
9 something new here.

10 They were -- they were all illegal in --  
11 in her opinion, from what she's saying, and -- and  
12 in all of our opinions still to this day. But the  
13 black market games that were there precursor --  
14 and very, very few of them compared to what has  
15 happened since Torch has come on the scene.

16 But they were a different style of machine  
17 and they didn't advertise that they pay out and  
18 that -- that it's legal to play them, and people  
19 actually went the other direction. They --  
20 they -- people who operate or had black market  
21 machines of the type that I think she's referring  
22 to that are different, they are different because  
23 they -- they pretend not to be a gambling device  
24 and it's -- it's -- it's kind of a whole other  
25 business model of illegal activity, if you will.



1 Did that help?

2 Q Yeah. And I would just say, I mean,  
3 it's -- it's -- it's your opinion that the Torch  
4 devices are illegal; right?

5 A I've said that's my opinion, but I was  
6 also referring to what she was saying in -- in  
7 your question.

8 Q Oh, I get that. Okay. So but in your  
9 mind, then, I think what you're saying that at  
10 least as you -- well, what you're saying is to  
11 you, there's no difference between black market  
12 games and Torch games; fair?

13 A Not -- not fair. And not to be  
14 hypothetical in what you're saying, they are  
15 different. They're completely different business  
16 models. They're both illegal. That's --

17 Q Well --

18 A -- that's my opinion.

19 Q -- I mean, I'm just saying, the definition  
20 of black market games you're excluding from your  
21 understanding of that phrase "Torch devices"? Is  
22 that what you're saying?

23 A No. I'm saying they're all illegal. But  
24 a black market machine, as she is referring to it  
25 here, is something different. They're both

1 illegal, and they both are illegal business  
2 models --

3 Q In her opinion.

4 A -- they're just slightly different. And  
5 you said do I believe they're the same? And it --  
6 it's a little hard to know -- in the context of  
7 this sentence of what she's saying, no, I don't  
8 believe they're the same. They're -- they're  
9 different business models, and that's why she's  
10 using two different terminologies.

11 Q Okay. That -- that's open. Her -- her  
12 second point was we also need to determine what  
13 the governor's authority is to address these  
14 games. Do you know what she was talking about  
15 there based on your interactions with her?

16 A Well, yeah. I think it -- I think it  
17 speaks for itself here. But at the same time,  
18 this was still in the context of trying --  
19 apparently, trying to work with various people in  
20 Jefferson City to determine what can be done about  
21 the illegal machines that were -- that were  
22 blossoming or blooming or starting to come out of  
23 the woodwork at the same time that I know Andy  
24 Arnold was promoting a bill for VLT, which is an  
25 acronym for video lottery terminals, and we were

1 talking about what we refer to as VPTs. That  
2 acronym is aimed at the video pull tabs that  
3 Diamond Games and the lottery were legally  
4 operating.

5 And Andy wanted to -- to -- to -- Andy is  
6 a proponent, has been a proponent for a couple of  
7 years prior to that and still to a -- a different  
8 kind of expansion of video lottery terminals. And  
9 so these conversations were going on amongst  
10 various sanctions, if you will, of -- of people  
11 that were trying to figure out what to do.

12 And in the -- and in the -- in the -- in  
13 the -- in the middle of the beginning of that  
14 sorting out, there is this new player on the  
15 street and the old player of the black market  
16 games that she's referring to. But the new player  
17 on the street is, obviously, the Torch devices  
18 that they're talking about here. So, hopefully,  
19 that puts it all into kind of perspective for you.

20 Q And then if we look at her last line in  
21 that paragraph, it says, "If we have to repla- --"  
22 I'm sorry. "If we have a replacement for them."  
23 And by "them," she's referring, you understood  
24 her, to the Torch devices and the black market  
25 game devices; right?

1           A   No.  I think when you read the thing --  
2           she's talking about the "fraternal and the  
3           veterans organizations and maybe taverns and  
4           convenience stores, to a lesser extent, if they  
5           are forced to give up their black market games.  
6           If we have a replacement for them, it would be an  
7           easier transition for everyone."  So that's --

8           Q   Okay.

9           A   -- what I was just explaining.  Andy  
10          Arnold is a proponent to -- to a bill -- or has  
11          been and still is -- a bill to expand the lottery  
12          to be able to put out video lottery terminals  
13          through various structures whether -- and -- and  
14          their bill has evolved over the years but -- and I  
15          don't know every single detail of all of them, but  
16          the VPTs, transversely, weren't required new  
17          legislation.

18                 They were already on the street legal,  
19          just weren't regulated properly.  And we were  
20          trying to figure out how can we regulate them  
21          properly and, perhaps, get our industry, our  
22          membership, a way to be involved so we could  
23          survive and be a part of whatever was legal.  
24          That -- that's the -- that's what was happening  
25          there.

1           Q   Yeah.  I -- and I think what -- what she  
2           was saying, I think I've seen some other stuff  
3           where it seemed like you were in agreement that,  
4           really, without some sort of alternative like  
5           that, VLTs or some other expansion of a -- of a,  
6           you know, electronic gaming device, that you could  
7           offer up the fraternal organizations or the  
8           taverns, it would be -- it would be difficult to,  
9           you know, get rid of what you thought were illegal  
10          or black market gaming devices; right?

11          A   Based on what she's saying, the push she  
12          was concerned about, "the push back the governor  
13          risks from fraternal and veterans organizations  
14          and maybe taverns and convenience stores."

15                So I'm not sure if I understand your  
16          question.  She's saying what she's talking about  
17          and -- and I think I've articulated that I  
18          understand now and then what she was saying.

19          Q   Did you agree with it now and then?

20          A   Well, I -- I think I did.  I think I do.

21          Q   Okay.

22          A   That it is part --

23          Q   No.  That --

24          A   -- of a process --

25          Q   Yeah.

1           A -- to figure out how -- how you deal with  
2           the political aspects of ridding a fraternal  
3           organization, I think, in particularly, because  
4           everybody loves the military and loves veterans  
5           and -- and realize that they're charitable  
6           organizations. So, yeah, I think I understood and  
7           agreed with what she was saying.

8           Q    Would it be fair to say that you are not  
9           against the expansion of gambling, just you want  
10          the expansion of gambling to be devices that you  
11          believe comport with your understanding of  
12          Missouri's criminal gambling laws?

13          A    You better say that again because I -- I  
14          have trouble with the number of things you said  
15          there.

16          Q    Yeah.

17          MR. CRAIG: Yeah. Madam Reporter, could  
18          you please read back my question?

19          COURT REPORTER: Yes, sir. One moment.

20          Question: "Would it be fair to say that  
21          you are not against the expansion of gambling,  
22          just you want the expansion of gambling to be  
23          devices that you believe comport with your  
24          understanding of Missouri's -- excuse me --  
25          Missouri's criminal gambling laws?"

1           A   I do not agree with all of that is my  
2   answer.

3           Q   (By Mr. Craig)   You -- so you are not fine  
4   with expanding gambling in the state of Missouri  
5   so long as the expansion is, in your opinion,  
6   legal?

7           A   Expansion is the word I'm struggling with,  
8   Aaron.   Quite frankly, I -- I don't know that  
9   there needs to be any expansion.   I think we, as  
10   voters and as citizens, have already approved, by  
11   the ballot box, enough gambling in Missouri.   So I  
12   guess that's my answer.   So, no, I can't agree  
13   with what you -- you -- you -- what you said.   I  
14   don't think we need expansion necessarily of  
15   gaming in Missouri.

16          Q   Well, I -- I mean, I think -- I think here  
17   what Kathi Harness is saying, and I believe you  
18   said you generally agreed with, was that one --  
19   one strategy for, you know, overcoming the  
20   political hurdles would be that you needed to  
21   offer up these locations that might have what you  
22   believe were illegal or black market gaming  
23   devices a different alternative of what you  
24   believe to be legal gaming devices; right?

25          A   That is right, but I don't know that that

1 is technically a -- an expansion.

2 Q Well, it would certainly, in your opinion,  
3 be an expansion of what you consider to be legal  
4 gaming devices; right?

5 A I think you could say that.

6 Q Okay. And you were okay with that; right?

7 A Yeah. It's an existing gaming activity.  
8 It's existing to authorize legal activity in the  
9 state.

10 Q So as long as the device that we're  
11 talking about is a device that you personally  
12 believe is legal to gamble on in the state of  
13 Missouri, you're okay with that device replacing a  
14 device that, in your opinion, is illegal under  
15 Missouri's criminal gambling statutes; right?

16 A I think I can agree with that.

17 Q So it's -- it's not -- it's not really  
18 that what your -- your position would be is is  
19 that I am so against gambling that what I want is  
20 for all the black market or illegal gambling  
21 devices that I think are illegal under Missouri's  
22 gambling statutes to be wiped off the market  
23 because they are, you know, immoral and bad for  
24 society; right? That's not -- that's not what  
25 your opinion is; correct?



1           A I think that's what I said earlier in my  
2 previous deposition. I'm -- I'm not a far right  
3 wing, Bible-thumping, ultraconservative person. I  
4 just want to play by the same rules as everybody  
5 else, and I want everybody to play by the same  
6 rules I have to play by. And so that's -- that's  
7 what my personal opinions and my opinions on  
8 behalf of TNT are driven by.

9           Q And, ultimately, you would like for either  
10 yourself or your members to have some commercial  
11 vested interest or ability to profit from the  
12 devices that would replace these illegal, in your  
13 opinion, or black market gambling devices; right?

14          A I would like to do everything and I have  
15 tried to do everything I can to -- to keep my  
16 industry alive for my -- for my employees and --  
17 or for my family and for my friends across the  
18 state who are involved and some that aren't even  
19 friends.

20                 But just kind of on the principle of the  
21 industry that I'm in, I've tried to do the right  
22 thing for -- for everyone that I represent or  
23 have -- have represented myself as -- as being  
24 a -- a leader for. And in -- in -- and in this  
25 era, I was a director, if -- if not an officer. I

1 may have been a vice president or something at the  
2 time. I can't remember.

3 But I always tried to look out for the  
4 industry separately from my own best interests  
5 even, at times, and -- and you may or may not  
6 believe that. I don't mean to go on and on, but  
7 I'm trying to answer your question 100 percent  
8 clearly and honestly.

9 Q Well, if we just take Diamond Games as an  
10 example, we looked back at, you know, the first  
11 instance that I could see you talking about  
12 Diamond Games, and you're telling state officials  
13 that you believe that Diamond Games games and how  
14 they were placing them in the state of Missouri  
15 was, I think you said, potentially illegal; right?

16 A Yeah. And that --

17 Q Okay.

18 A -- statement there --

19 Q Yeah. That's -- I -- I'm -- so I --

20 A Well, but that statement was --

21 Q Okay.

22 A -- referring to -- when I say potentially,  
23 I'm referring to at that time -- you may not know  
24 this, but the casino industry was up in arms  
25 probably more than the -- the lowly mom and pop

1 amusement business industry.

2 The casino industry was suing Diamond  
3 Games at that time and the lottery, I think, for  
4 that activity, claiming it was illegal. And  
5 that's why without you knowing that, you would  
6 interpret me saying that I'm judging them to be  
7 illegal.

8 I was throwing the -- the information that  
9 was out there and I know was circulating and  
10 percolating in the capital, because the casino  
11 industry wields a lot of power up there, and those  
12 lobbyists were telling the same people that I was  
13 writing those letters to that what they're doing  
14 is illegal expanding that pilot program without  
15 legislative oversight. And so that -- that's what  
16 I was referring to for clarification for you.

17 Q Yeah. But you don't disagree that, you  
18 know, even with that background, which I think is  
19 a little bit -- you don't disagree that you did  
20 represent that it was your opinion, when you were  
21 expressing those to the representatives that you  
22 talked to, that you thought Diamond's games might  
23 potentially be illegal; right?

24 A I think that's -- if we go back and read  
25 it, I think that's exactly what I said.

1           Q   Okay.  We can agree.  And -- and you are  
2   saying you're against Diamond Games being placed  
3   anywhere in the state of Missouri as a blanket  
4   statement; right?

5           A   You're saying I was saying that I was  
6   against or was not against?  I -- I -- I'm  
7   confused on --

8           Q   You were.  You were against Diamond Games  
9   operating in the state of Missouri anywhere?

10          A   In 2017?

11          Q   Correct.

12          A   At that time, yes.  That was the point I  
13   was making.  I was fighting, if you will, elbowing  
14   my way into the conversation.  And that's what --

15          Q   Yeah.  Yeah.

16          A   -- what I was saying at that time.  Yes.

17          Q   All right.  And I then, eventually, I  
18   think what you kind of foreshadowed was you did  
19   elbow your way -- well, back up.  Yeah.  You did  
20   elbow your way into that competitive arena; right?  
21   And you got eventually a deal struck between  
22   yourself and other members of MO AMOA to actually  
23   start working with Diamond Games; correct?

24          A   Eventually, we did come to terms with some  
25   opportunities that we could work together to try

1 to expand the VPTs in a way that our members could  
2 potentially then make money and help to service  
3 and place those machines and maintain them.

4 Q Right. So for whatever reason, between,  
5 you know, that -- that first time that we talked  
6 about in 2017 and then sometime in, you know, late  
7 2018 to 2019, you went from the opinion that  
8 "Diamond Games are super illegal. They're harming  
9 my business, you said, "and I don't want them  
10 placed anywhere in the state of Missouri" to  
11 "Diamond Games is great. We've signed up with  
12 them. We want to expand what they're doing in the  
13 state of Missouri"; right?

14 MR. FINNERAN: Objection. Argumentative.  
15 Misstates testimony.

16 But, Jim, you may answer, if you would  
17 like or you can actually --

18 MR. CRAIG: I don't think it does.

19 Q (By Mr. Craig) You can answer.

20 MR. FINNERAN: Yes.

21 A I -- I think that's -- there was -- there  
22 was a -- an agreement that we were able to reach  
23 that if things could go the right way, that we  
24 could -- we could have our industry membership  
25 involved. And so then, yes, at that point, I was

1 willing to work and help to -- help Diamond Games  
2 to -- to get the -- the program expanded, the  
3 existing program expanded.

4 Q (By Mr. Craig) So as -- as long as -- as  
5 you and yours got your piece of that pie, you were  
6 willing to not only, you know, bless Diamond  
7 Games's operations in the state of Missouri but  
8 participate in their expansion; correct?

9 MR. FINNERAN: Same objection.

10 You may answer.

11 A When you say "you and yours," no, not --  
12 not me and mine, but my industry, my --

13 Q (By Mr. Craig) Well, you -- you --

14 A -- brotherhood, if you will, my -- my  
15 industry.

16 Q You testified earlier, when I pointed out  
17 the fact that you had made representations, that  
18 your business personally had been adversely  
19 impacted by what you believed might be illegal  
20 conduct by Diamond Games; correct? Do you  
21 remember when we had that conversation?

22 A I do.

23 Q Okay. So are you saying that that is not  
24 true?

25 A I'm not saying that at all.

1           Q All right. So then if you're saying that  
2 you went from the point of representing that your  
3 own business was being impacted by Diamond Games'  
4 allegedly illegal activity to then saying, well,  
5 we've reached -- we, being me and everybody else  
6 in MO AMOA, have reached an agreement that will  
7 benefit all of us, that by implication, you and  
8 your businesses would also benefit?

9           A I think that it's unfair the way you're  
10 characterizing that. If you go back and see what  
11 I said, I was talking about me and my friends then  
12 and I'm talking about me and my friends now.

13          Q Right. You were all benefiting by the  
14 fact that you were able to, as you say, elbow your  
15 way into the conversation and get yourselves a  
16 seat at that table to play along with Diamond;  
17 right?

18          A I think we've --

19               MR. FINNERAN: Objection. Argumentative.

20          A Yeah. I -- I -- I think we've said that.  
21 It just seemed like you were --

22          Q (By Mr. Craig) Okay.

23          A -- characterizing it in the latter sense  
24 that it was all self-serving versus being more  
25 of -- of a -- of a blanket that helped everybody

1 in my industry which was what I was actually doing  
2 both times --

3 Q Well --

4 A -- all -- all the way through.

5 Q Tomato tomato or tomato tomato.

6 A From your perspective -- from your  
7 perspective, yes. From mine, it's a difference  
8 in -- in -- in -- and it's -- it's -- it's a  
9 difference in my character when it's self-serving  
10 versus -- because I benefit and everybody else  
11 benefits, the people that I'm trying to help,  
12 there's a difference, instead of just I benefit.  
13 There's a big difference, and I think you can see  
14 that.

15 Q I'm not sure I can, but I -- I get your --  
16 I see what -- I've heard you. Let's say that.

17 A Okay. Okay. Fair enough.

18 Q All right. I'm marking a new exhibit that  
19 will be marked as Deposition Exhibit 13 for  
20 identification. Let me know when you can see it.

21 A I see it.

22 Q Okay. At the top of what's been marked as  
23 Deposition Exhibit 13 for identification, there is  
24 an email chain that starts from Donna Havey to  
25 yourself, Jim Turntine, dated January 25th, 2019;



1 correct?

2 A I see that.

3 MR. FINNERAN: I'm sorry. I'm sorry.

4 Hold on, Aaron. I can't see the document. Did  
5 you say there's a new one in the --

6 MR. CRAIG: Yeah. Exhibit 13. It should  
7 be document 11 in the chain -- in the line. You  
8 might re- -- re- -- refresh your browser.

9 MR. FINNERAN: Okay. Yeah, let me try  
10 to -- sorry. The -- I'm -- the last one I can see  
11 is the one that we were just looking at. Let's  
12 see. Exhibit 13. Yes. Okay. I see it now. I  
13 apologize. Thank you.

14 MR. CRAIG: No worries.

15 Q (By Mr. Craig) Okay. So you -- you agree  
16 with me that Exhibit 13 for identification is an  
17 email that was sent from Donna Havey to yourself  
18 at Jim -- Jim Turntine, on January 25th, 2019;  
19 correct?

20 A I see that. Yes.

21 Q Okay. And Donna Havey is an employee of  
22 Play-Mor; correct?

23 A Correct.

24 Q Which is also TNT; correct?

25 A Correct.

1 Q What is Donna Havey's title?

2 A I believe we gave that to you. She is the  
3 route manager, I think is what we referred to her  
4 title as.

5 Q I'm sure you did. I'm sure we talked  
6 about it before. But just so I don't have to go  
7 back and look, do you recall about how long she's  
8 been working for you?

9 A A long time. Maybe 15 years or more.  
10 It -- it's a long time. I -- off the top of my  
11 head, I don't remember how long, but a long time.

12 Q Yeah. I won't hold it to you. But longer  
13 than a decade?

14 A I'm sure. Yes.

15 Q Okay. So if you go all the way to the  
16 bottom of Page 3 of Exhibit 13, you should see an  
17 email from Donna Havey to yourself and Marla  
18 Turntine, your wife, sent Monday, January 21st,  
19 2019; correct?

20 A I see that.

21 Q And she says, "I talked to Nate Howard  
22 from the VFW Saint James. He said he started the  
23 process, calling the gaming commission head  
24 office. He told them he wanted to make a  
25 complaint about illegal gambling." Did -- did I

1 read that correctly?

2 A Yes.

3 Q Do you believe that this is -- well, do  
4 you know, based on any other information, whether  
5 Nate Howard -- this complaint that he wanted to  
6 make about illegal gambling, did this involve a  
7 Torch device?

8 A Say what now? Ask that again, please.

9 Q Yeah. Do you know if this illegal  
10 gambling thing that's being discussed here as  
11 something Nate Howard wanted to make a complaint  
12 to the Missouri Gaming Commission about, do you  
13 know if that involved Torch devices?

14 A I believe it did. Yes. In the gas  
15 station, remember, I mentioned earlier up the  
16 street from his post.

17 Q Okay. So -- so that conversation that  
18 you've referred to a few times, that conversation  
19 initially happened January 1st, 2019?

20 A Well, this conversation happened  
21 January 21st, 2019.

22 Q Okay. And I take it that Nate Howard  
23 believed that those Torch devices, if we can agree  
24 that that's what he's talking about, were illegal  
25 at that time in January 21st of 2019; right?

1           A   That's what it -- that's what it says.  
2           That's what it indicates.

3           Q   Okay.  And then if you skip down to the --  
4           the paragraphs are a little wonky, but it would be  
5           the fourth line from the bottom.  Donna says,  
6           "Nate had told the location manager, prior to  
7           reporting them, that the machines were illegal,  
8           but the manager said that his corporate office  
9           told him that their lawyer told them they were not  
10          illegal."  Do you see that?

11          A   I see that.

12          Q   Okay.  So, I mean, at least assuming that  
13          Donna was being truthful with what Nate had told  
14          her, Nate had informed her that he specifically  
15          told this location manager that the Torch devices  
16          were illegal; right?

17          A   That's what it says.

18          Q   Well, did you ever talk to this location  
19          manager?

20          A   No.

21          Q   Do you know whether Donna Havey ever had a  
22          separate conversation with this location manager  
23          of this gas station?

24          A   I don't believe she did.

25          MR. FINNERAN:  Let me -- objection.  Vague

1 as to time frame.

2 MR. CRAIG: Yeah.

3 MR. FINNERAN: You may answer.

4 A Yeah. I -- I have no idea. I don't see  
5 why she would've. I -- I don't think that she  
6 did. I don't think she would've, but who knows.  
7 She could've stopped in and asked a question.  
8 I -- I don't know.

9 Q (By Mr. Craig) Okay. All right. And  
10 then one -- one email up, we got an email from you  
11 to a whole bunch of people dated January 21st,  
12 2019. Do you see that?

13 A Which date?

14 Q That would be the one right above the  
15 Donny Ha- -- Donna Havey email that we just looked  
16 at. So January 21st, 2019. It's the same date,  
17 actually.

18 A Okay. It's also on Page 3, barely. Okay.

19 Q Correct. Yeah. So it looks like you  
20 forwarded on Don Havey's email to you, that we  
21 just discussed, to a number of people; right?

22 A Yes.

23 Q Okay. Ron Kinney we've discussed;  
24 correct?

25 A Yes. Yes.

1 Q Who is Chuck Bengimina?

2 A Chuck Bengimina is another member of the  
3 Missouri AMOA and was a director at that time as  
4 well, as I recall.

5 Q And for the court reporter, that's  
6 B-e-n-g-i-m-i-n-a.

7 Who's Stephanie Turntine?

8 A That is my daughter.

9 Q And she's got a @playmor.com address.  
10 Stephanie is an employee at TNT?

11 A She was for a short while.

12 Q Was she a TNT employee at this time in  
13 January of 2019?

14 A I can only assume so. I can't say for  
15 certain, but I had her copied on there. So at  
16 that time, she probably was but --

17 Q Okay. And then Marla -- sorry. I didn't  
18 mean to cut you off.

19 A That's okay.

20 Q And Mar- --

21 A I just want -- I just want to make sure  
22 you know that I -- I don't know if she's tied to  
23 the payroll on the same date, but I'm assuming --  
24 you know, that's my daughter that I wanted to take  
25 over the company, but because of circumstances,

1 frankly, she wants nothing to do with it now.

2 But -- but that's --

3 Q Gotcha.

4 A -- another story.

5 Q Okay. And Marla Turntine, that's your  
6 wife; right?

7 A That is correct.

8 Q John Newman. Who's John Newman?

9 A John Newman is the son of Tom Newman in  
10 Poplar Bluff, the same family, a family  
11 business --

12 Q Okay.

13 A -- a member of the association.

14 Q And then there's a Tommy Bengimina. Who's  
15 that?

16 A The same. Son of Chuck in the Kansas City  
17 area.

18 Q Said like an endorsement, you know.  
19 Emily Carroll?

20 A Daughter of Ron Kinney, also a member of  
21 the association, in Springfield, Missouri.

22 Q Okay. And why were you passing this story  
23 on?

24 A Because they were all members. And as we  
25 were moving forward through the process of trying

1 to figure out what to do with our -- within our  
2 industry and our efforts to -- to -- to -- to deal  
3 with this emerging problem, I thought this was  
4 relevant information that, hey, somebody's found  
5 out a way to deal with this. It looks like you  
6 can report this to the Missouri Gaming Commission.

7 And according to the letter that Donna  
8 sent, she had said that the state patrol wound of  
9 showing up and unplugging them and telling them  
10 they had to take them out. So I was encouraged,  
11 and I wanted to share that information with other  
12 members that, hey, there might be a solution.  
13 Maybe the Missouri Gaming Commission is going to  
14 do something here and the state patrol. So I  
15 shared the information that my employee had told  
16 me that she had been told by Nate Howard.

17 Q Do you know if those machines were later  
18 given back and plugged back in?

19 A Well, I don't know if they were taken,  
20 sir. I -- I -- I honestly don't know what  
21 happened other than what Donna told me at this  
22 date.

23 Q Gotcha.

24 A And I don't know if they were ever taken.  
25 So I don't -- I can't say -- I can't really answer



1 your question.

2 Q Okay. I thought that's what you said.  
3 I -- I don't know one way or another as I sit  
4 here. So that's fine.

5 A Okay. Okay.

6 Q Okay. And then if we go up to your -- to  
7 the next email on the chain, it's an email from  
8 you, Jim Turntine, to Tom Cobb, Stephanie  
9 Turntine, and Marla Turntine, and  
10 scott@swaingroup.biz dated January 23rd, 2019;  
11 correct?

12 A I see that. Yes.

13 Q But, yeah, and maybe -- I don't know if I  
14 mentioned Kathi Harness, but she's also a  
15 recipient; right?

16 A Yes.

17 Q Okay. I wanted to go down to the part  
18 where you say, "Is the gaming commission  
19 activity --"; do you see that?

20 A -- public information?

21 Q Yeah.

22 A I see that.

23 Q Okay. So you say, "Is the gaming  
24 commission activity public information? Can we  
25 request the details of the enforcement event which

1 would enable us to share that information with  
2 legislatures and especially in the governor's  
3 office staff today because the governor has  
4 accepted large donations from Torch Electronics  
5 and should be made aware of his exposure to his  
6 good name. If he and his staff are unaware of the  
7 governor's vulnerability, we should at least clue  
8 them in. His friendship with Tilley aside, this  
9 matter may blow up on the governor if we advise  
10 Senator Schatz to file the bill he wants." Did I  
11 read that correctly?

12 A I think so.

13 Q Okay. And I wanted to key in on the part  
14 where you say, "If we advise Senator Schatz to  
15 file the bill he wants to file." What did you  
16 mean by that?

17 A Well, I think it speaks for itself. And,  
18 I believe, at the time, Senator Schatz had a bill  
19 that was going to increase the penalties for  
20 operating illegal gambling machines and was going  
21 to draw attention to the black market problem.  
22 And, honestly, I think this -- this -- at this  
23 time, I was just shocked to -- things were  
24 unfolding and I was learning things that,  
25 honestly, to this day I still can't believe was

1       happening and happened. But this --

2           Q   Okay. What about the part where you say,  
3       "If we advise Senator Schatz to file"? Doesn't  
4       that -- well, when I read that, I'm thinking,  
5       well, it sounds like you're saying, "whether  
6       Senator Schatz and the timing of when he files,"  
7       that would be something that you and your advisors  
8       might have some control in. Would that be fair?

9           A   I think I -- it probably overstates it.  
10       I -- you know, I would say we could influence  
11       or -- or ask or have some sort of participation  
12       in -- in what we feel might work and be best for  
13       the things that we were trying to deal with. So,  
14       you know --

15          Q   Well, Senator --

16          A   Go ahead.

17          Q   At -- at this time, was Senator Schatz --  
18       had he told you or anybody else, as far as you  
19       were aware, that he wanted to fi- -- file the bill  
20       that you say, quote, he wants to file, but he was  
21       waiting to see whether or not you wanted or your  
22       group wanted him to do so?

23          A   Yeah. I think this was his first term as  
24       the Senate pro tem maybe or -- I -- I think that's  
25       what it was. And during the summer of 2018, we

1 had really kind of begun to learn about some of  
2 this stuff. And I remember talking to him, during  
3 the summer, at a barbecue, a family barbecue,  
4 because I've told you he's a -- kind of a  
5 member of my extended family. And, you know,  
6 Kathi Harness, especially, she's -- she's been a  
7 lobbyist for 30 some odd years. And, you know,  
8 they know the ropes. And -- and, ultimately, I'm  
9 engaged in a conversation talking about what --  
10 what do we do? And I was shocked to -- to  
11 learn --

12 Q Well, I -- yeah. I'm sorry. You're  
13 going -- you're -- this is totally not actually  
14 responsive to my question.

15 A Okay. Okay. Tell me what you want. I'll  
16 start over.

17 Q No. I just -- I mean, I just -- again,  
18 there's a lot to get through. I want to make sure  
19 we do that. And I understand you've got other  
20 things that you want to say, but I was just simply  
21 asking --

22 A Well, not really. I'm -- I'm just trying  
23 to answer your question. I'm not trying to say  
24 anything other than --

25 Q Okay. All right.

1           A   -- answering your question.

2           Q   Yeah.  And -- and I'm not trying to be  
3   rude by cutting you off.  I really am not.  But  
4   you -- I think you more than answered my question,  
5   and I was trying to get us back --

6           A   Okay.

7           Q   -- on track; okay?

8           A   Great.  Great.

9           Q   Okay.  So I -- I think that the first  
10   thing you said in response to my question of  
11   whether your group might've had some influence  
12   into when, in particular, Senator Schatz might  
13   file the bill that you said he wants to file, I  
14   think, was, "yeah."  So would you agree that your  
15   understanding was is that maybe you and your group  
16   might've had some input into the timing of when  
17   Senator Schatz might file that bill?

18          A   I think that's what this letter says.  I  
19   think we --

20          Q   Okay.

21          A   -- did have some influence over, you know,  
22   whether he was going to file a bill or would it be  
23   helpful in -- in what we were trying to do.

24          Q   And -- yeah.  And did you also have some  
25   influence in, you know, suggesting language that

1 might go into Senator Schatz's proposed bill?

2 A I -- I don't -- I don't know off the top  
3 of my head because there's -- there's multiple  
4 years. This goes back many years. I -- I don't  
5 remember when and what everything happened. So --

6 Q Okay.

7 A -- I can only tell you what I must've felt  
8 at this day during this letter. I -- I felt like  
9 at that time, he must've been willing to, you  
10 know, take our input in -- in the decision of  
11 whether he's going to file a bill or not.

12 Q Okay. And then if we skip down a few  
13 lines, where it says, "The result is leaving a  
14 vacuum"; do you see that?

15 A No. Not yet.

16 Q So five lines down from where we just  
17 were. "The result is leaving a vacuum."

18 A The result. Okay. The result.

19 Q Okay.

20 A I see it.

21 Q So skip a little bit, and you say, "The  
22 result is leaving a vacuum that leaves the  
23 leadership in this matter open to happenstance."  
24 Does that -- I mean, are you talking about if this  
25 bill that Senator Schatz was wanting to file, if

1 that was filed and then passed into law to e- --  
2 eradicate -- I think in the line above, you use  
3 eradicate what you believe were these illegal  
4 games and -- and they were all shut down  
5 instantaneously, I think -- I think I understand  
6 what you're saying was, essentially, that would  
7 leave a vacuum in all of these locations in the  
8 state of Missouri that then, those places would be  
9 trying to fill with something; right? So there  
10 needed to be something to fill that vacuum in your  
11 opinion; is that fair?

12 A Can I read what I wrote above it so I know  
13 what I'm talking about and referring to?

14 Q Oh, absolutely. Yeah. Absolutely. Yeah.

15 A All right.

16 MR. FINNERAN: Aaron, while Jim is  
17 reading, do you have a sense of when you will want  
18 us to take a lunch break? I've got a client who's  
19 asking for a call around 1:15, and so that would  
20 be convenient for me. But if you wanted to pick a  
21 different time, I can try and schedule it  
22 differently.

23 MR. CRAIG: Yeah. No. That's fine. We  
24 can -- we can keep going till, I don't know, 1:00  
25 or 1:10, whenever you need to get off for that

1 call.

2 MR. FINNERAN: Okay.

3 A Okay. So to answer what I think your  
4 question was, you -- you -- you -- you asked if my  
5 vacuum was in reference to machines and I -- if  
6 you read what it says above it, I'm talking about  
7 the leadership, meaning -- meaning in January of a  
8 legislative session, we were talking about whether  
9 the governor would do anything, but he won't  
10 because his friend, Tilley, represents Torch  
11 Electronics. We knew that by then. And if the  
12 governor won't do anything, it -- it's going to  
13 leave a vacuum in the leadership, not a vacuum in  
14 machine or inventories or something -- whatever it  
15 was that you were saying.

16 Q Gotcha.

17 A But I literally talk about the leadership  
18 of the -- the Missouri Legislature, not knowing  
19 where the governor stands on this. What does he  
20 want us to do? That's what I'm talking about.

21 Q Okay. Nope. That's fair.

22 A Okay.

23 Q You say, then, "By default, Senator  
24 Schatz' bill, if filed, will become the  
25 leadership." What did you mean by that?



1           A   Well, his -- his bill was coming out  
2   taking a stance on the problem versus the governor  
3   just refusing to take a stance because of Tilley,  
4   or whatever his reasons are, taking donations or  
5   whatever. But at that point, apparently, when you  
6   read what I was -- what I've written, I was told  
7   that the governor's not going to do anything. And  
8   if Schatz files a bill that takes a strong stance,  
9   as Senate pro tem, that -- that is going to be the  
10   leadership that's going to set the tone.

11           And so that's what I think I was  
12   describing, whether it was right or not is another  
13   conversation, but that's me trying to read the tea  
14   leaves of all the things that were happening  
15   during that time; okay?

16           Q   And -- yeah. And you're aware that  
17   sometime after this, Senator Schatz did introduce  
18   a -- a Senate bill that would have, if passed,  
19   made Torch devices explicitly illegal given the  
20   prize viewer function; right?

21           A   No. Not right. I can't say that. I -- I  
22   know that Senator --

23           Q   You're not aware of that?

24           A   I'm sorry?

25           Q   You're not -- you're not aware that

1 Senator Schatz did that at some point?

2 A I don't remember if he ever filed a bill  
3 that specifically was aimed at Torch and  
4 pre-reveal or whatever you just said. I know that  
5 he filed a bill at one point that -- that was to  
6 add penalties -- increase the penalties for people  
7 convicted of operating, owning, or  
8 participating -- however -- whatever it said. I  
9 don't remember the exact words.

10 And I don't know what year that this was  
11 versus other versions because the bills were filed  
12 mult- -- every year. I think even last year. And  
13 Senator Schatz isn't there anymore. The same  
14 basic bill continues to be filed by someone, if  
15 not multiple people, on the House and the Senate  
16 side.

17 And in this year, if this is the year I'm  
18 thinking of, out of my memory, out of all of the  
19 years that it's gone on, I -- I can't remember  
20 what bill he put forward, if he even put one  
21 forward, because, normally, what he did was he  
22 would have someone else put it forward. The pro  
23 tem normally doesn't put forward a bill. But I  
24 think one year he did. But I think other people  
25 did too, and he might've been, like, the third

1 one.

2 And it -- that's all part of how they get  
3 laws passed and -- and the de- -- the -- the ebb  
4 and flow how legislation makes its way through is  
5 what committee chair puts this bill forward versus  
6 who that, you know, does that? And who's doing  
7 what in the House?

8 So I -- I can't say what year what  
9 happened, Aaron. And I apologize. I'm not trying  
10 to be argumentative to your question either. But  
11 I know that things happened, and it was all in the  
12 context of trying to figure out how to move  
13 forward with -- with our industry's needs in the  
14 context of whatever I'm talking about.

15 Q Would it be fair to say that you were --  
16 you are aware that during those same years that  
17 we've been talking about that there was  
18 numerous -- I think, as you just mentioned,  
19 numerous attempts to change Missouri's gambling  
20 laws, including Revised Statute 572.010, and  
21 you're aware that all of those attempts at the  
22 legislative level to change that law, they all  
23 failed; right?

24 A To my knowledge, they all failed. To my  
25 knowledge, they -- they were -- I don't know that

1 it was 572.010 alone. It could've been other  
2 statutes. And I also hate to add it, but I don't  
3 think the law ever needed to be changed.

4 Increasing penalties wasn't even necessary. I --

5 Q Okay.

6 A That was -- that was my --

7 Q All right.

8 A -- feeling all the way through it.

9 Q I think I may have seen some documents  
10 that -- that suggest otherwise, but I understand  
11 that that's your opinion as you sit here today.  
12 Okay. You also talked a lot in here about Steve  
13 Tilley and his relationship to the governor. And  
14 is it my understanding that you believe Steve  
15 Tilley was a Torch -- was a -- a lobbyist that was  
16 somehow associated with Torch?

17 A I -- I -- I believe I was told that it --  
18 that's their registered lobbyist.

19 Q Okay. And so, I mean, you don't disagree  
20 that, like -- like -- well -- sorry. Fair to say  
21 that you and your trade association, obviously,  
22 used lobbyists to try to, to the extent that you  
23 could, influence any lawmaking that would impact  
24 your industry from 2014 to the present; correct?

25 A Correct.

1           Q   Okay.  And -- and so, I mean, you're not  
2           necessarily surprised that Torch Electronics would  
3           also engage with a lobbyist to represent Torch's  
4           interest, what Torch believes its legal interests  
5           are in the state of Missouri; right?

6           A   I think that's right.

7           Q   Right.  And, I mean, I -- I take it that  
8           if -- if you had some -- if -- if your -- if  
9           your -- well, I'll strike that.  I think we're  
10          good there.  That's fine.

11          I guess, would it be fair to say that you  
12          were frustrated by the effectiveness, as you saw  
13          it, of Steve Tilley's lobbying efforts during this  
14          time frame?

15          A   I think I was beginning to -- to feel like  
16          there was something going on there and frustrated  
17          by it.  Yeah.

18          Q   Were you, then, also frustrated and  
19          potentially disappointed by the results of your  
20          own lobbyists?

21          A   I don't think so.  I think -- I don't  
22          think so.

23          Q   Okay.  Well, just like anything else in  
24          life, there's better lobbyists maybe than other  
25          lobbyists; right?

1           A   I guess so.

2           Q   Okay.  You would hope that you retained  
3   the better lobbyist, right, I expect?

4           A   And I hope I retained a better lawyer.  I  
5   hope I retained a better lawyer.

6           MR. CRAIG:  Ouch.  Ouch, Rich.  Dang.  
7   That's -- that's harsh.  I wasn't even asking for  
8   that one.

9           MR. FINNERAN:  That --

10          THE WITNESS:  Well --

11          MR. FINNERAN:  That was uncalled for.

12          A   I'm sorry.  I'm sorry.  My -- my bad.  
13   I -- I -- I -- I think -- the reason I hesitated  
14   there, better is a weird term when it comes to  
15   lobbyists because I think that Tilley served in --  
16   in the legislature with the governor and had a  
17   different relationship than maybe my lobbyist did.  
18   And -- and so better is a -- is a -- is a term  
19   that might not -- a better position?

20          Q   (By Mr. Craig)  Yeah.

21          A   A better relationship maybe?

22          Q   That's a fair distinction.

23          A   A better person or a better professional?  
24   I don't know that that's fair to say.

25          Q   How about it -- it would be fair to say

1       that you would like to hire the most effective  
2       lobbyist for your cause as you possibly could?

3           A   Man, that's a hard question.  I -- I --  
4       you're going to think I'm being argumentative,  
5       but, you know, I --

6           Q   You'd like to hire what?  What?  You'd  
7       like to hire the least effective?

8           A   No.

9           Q   The --

10          A   No.

11          Q   The --

12          A   I -- I'm -- I'm --

13          Q   -- lobbyist?

14          A   No.

15          Q   Or the best?

16          A   No.  I'm sorry.  I don't mean to keep -- I  
17       was trying to answer.  I'm a loyal person, and I  
18       had known Kathi and I -- and -- and her associates  
19       for decades.  So it -- to me, it wasn't better.  
20       It -- it's who -- you know, she knows me; I know  
21       her and --

22          Q   I'm not -- I -- just so you -- I'm not  
23       disparaging Kathi.  I'm not.  I'm just saying as a  
24       general principle, right, I assume the general  
25       principle would be that given all other options,

1 right, from -- from terribly ineffective political  
2 lobbyists to whatever defines the most effective  
3 political lobbyist, if you had a preference and  
4 you could pick anybody on that scale, I assume you  
5 would say, "please give me the most effective  
6 lobbyist"; fair?

7 A Not necessarily. I -- I'm loyal, and I  
8 want to stick with the lobbyist I have. I want to  
9 win. If you're asking if I want to win, I want to  
10 succeed? Yes.

11 Q Well, I'm -- I'm literally -- I'm not  
12 saying that there is a lobbyist that is even in  
13 mind. This is a pure hypothetical question.  
14 There's no loyalty. You've never -- in my  
15 hypothetical, you've never picked a lobbyist and  
16 you have no experience. So I'm telling you detach  
17 yourself from history with any prior lobbyist.  
18 I'm just saying, you, as a business owner, who has  
19 never hired a lobbyist, for the first time, before  
20 there's any loyalty that ever develops, it would  
21 make sense, from a business judgment standpoint,  
22 to pick on the sliding scale of completely  
23 ineffective lobbyist to whatever qualifies as the  
24 most effective lobbyist, it would make a good  
25 business decision to pick the most effective



1 lobbyist; right?

2 MR. FINNERAN: Objection. Relevance.  
3 Calls for speculation.

4 But, Jim, you may answer, if you know.

5 A I'm struggling with how you would even  
6 know. Where do you find this magical scale that  
7 tells you this guy is going to be better than that  
8 guy? I -- I don't -- I think all things being  
9 equal and everybody follow the law and everybody  
10 doing right and wrong, you -- you should all have  
11 the same opportunity. And that --

12 Q (By Mr. Craig) Okay.

13 A -- that kind of goes to the heart of  
14 everything that I have a problem with. I -- I  
15 follow the rules and --

16 Q Well, I mean, you would -- you would agree  
17 with me that some lob- -- I mean, most lobbyists  
18 have their job because they've, you know, either  
19 worked in legislation, with legislation, been  
20 somehow an aide; right? I mean, everybody is  
21 there because of the relationships that they have  
22 developed with other members of the legislation;  
23 fair?

24 A I don't know how they all get there. I --  
25 I know a lot of them are expoliticians.

1 Q That's fine.

2 A I -- I don't know how they all got there.

3 Q Well, let's stop wasting our time here. I  
4 think --

5 A Well, okay. Because I'm sorry because  
6 I -- I --

7 Q Well, I -- that's fine. I get it. I get  
8 it.

9 A Okay.

10 Q Okay.

11 MR. FINNERAN: Just a reminder, Jim.  
12 Please try not to talk over Aaron for the benefit  
13 of the court reporter. I know that it's tough on  
14 Zoom, but please let him finish his questions.

15 Q (By Mr. Craig) Okay. Sorry. I'm looking  
16 at my document. All right. And then we're again  
17 focusing on Exhibit 13. All right. If you go to  
18 Page 1 of 13, I guess, the second -- the second  
19 email from the bottom, if we're counting the start  
20 of the new email. It would be the email from  
21 yourself to -- to Donna Havey at January 25th,  
22 2019, at 10:25 AM. Do you see that?

23 A I do.

24 Q At one point, if you kind of skip down,  
25 right after "Understand?" that's just hanging out

1       there?

2           A   Yeah.   I see it.

3           Q   You say, "I still need the most important  
4       details from Nate on all that happened in Saint  
5       James so that we can try to get a copy of the file  
6       from the agency to enable us to develop a copy of  
7       that event where we need to elsewhere."   What did  
8       you mean?

9           A   What it says.   I -- I was asking her for  
10      more details on how did they get the gaming  
11      commission to do what they did.   This was before  
12      the gaming commission has their current hotline  
13      website link where you can just go on and --  
14      and -- and, you know, file your complaint with the  
15      information.

16                So I was trying to understand exactly how  
17      everything happened so that I could share that  
18      with the same people that I mentioned earlier that  
19      were all concerned how do -- how do we duplicate  
20      that?   How do we file these complaints and make  
21      the agency that's, apparently, at that point, we  
22      thought, had our hopes pinned on, was going to do  
23      something about this problem.   And this was early  
24      enough when all those other things weren't there  
25      that are there -- had been there since.

1 Q Okay. And --

2 MR. FINNERAN: Aaron?

3 Q (By Mr. Craig) And then --

4 MR. FINNERAN: On the document, you say  
5 you're on Page 1? And, if so, where are you? I'm  
6 sorry. I just couldn't find the spot you were  
7 referring to.

8 MR. CRAIG: Yes. Page 1 of Exhibit 13.

9 MR. FINNERAN: Mm-hmm.

10 MR. CRAIG: It's the -- it's the phrase  
11 that starts under the "Understand?" that's just  
12 hanging there by itself. Do you see that?

13 MR. FINNERAN: Oh. Sorry. Gotcha. I was  
14 looking at the email above that. Thank you.

15 Q (By Mr. Craig) But -- and then if we go  
16 down to the bottom of your message. So three  
17 lines up from "Jim" where it says, "Since Nate  
18 said." Do you see that?

19 A I do.

20 Q Okay. "Since Nate said he is going to do  
21 it all again... get these details now for this new  
22 effort for sure." Did I read that correctly?

23 A I think you did. Yeah.

24 Q We're -- we're still talking about Nate  
25 Howard; right?

1           A    Yeah.

2           Q    And what was your understanding -- Nate  
3 was going to do the complaint process to the  
4 Missouri Gaming Commission again, is that what --  
5 your understanding?

6           A    That's what it appears to say. And so  
7 without reading everything else I said, I think  
8 that's what it's indicating.

9           Q    Okay. Well, and it's just this is  
10 consistent with what -- you were trying to gather  
11 the -- the details about how Nate went about  
12 reporting that complaint to the Missouri Gaming  
13 Commission so that other members of your MO AMOA  
14 could file the same kind of complaints; right?

15          A    Yes. So we knew how to -- how to proceed  
16 with -- with getting something done about the  
17 illegal machines; yes.

18          Q    Okay. All right. I'm marking deposition  
19 Exhibit 14 for identification. Let me know when  
20 you can see it.

21          A    I got it.

22          Q    Okay. And this is a -- an email that you  
23 sent to Tom Cobb, Ron Kinney, and a number of  
24 other people dated February 12th, 2019, with a  
25 subject of forward DGE subcontracting information;

1 correct?

2 A Yes.

3 Q All right. It starts, "Hello everyone.

4 Tom Cobb called to tell me about an incident that  
5 happened to Brandon at a VFW in St. Joe yesterday.

6 Brandon had arranged a meeting with a VFW  
7 commander and his Board to explain options for the  
8 VFW to obtain GE -- sorry -- DGE lottery MPTs."

9 Did I read that correctly except for --

10 A You did.

11 Q -- screwing up DGE?

12 A No. You did.

13 Q What is "DGE"?

14 A Diamond Games. That's the acronym for  
15 Diamond Games, the company that works with the  
16 lottery that I had mentioned. This is now in  
17 February. So it appears that in -- by then, we  
18 were trying to help them place their machines and  
19 find -- and find places to put them or suggested  
20 to the VFW. I don't know exactly, without reading  
21 more. But, obviously, we were trying to help put  
22 the two together.

23 Q Okay. And what does "MPTs" stand for?

24 A I think -- I think we had been trying to  
25 settle on what we -- what acronym was best.

1 Earlier, we had a VPT, video pull tab, and I think  
2 we put "M" in -- in -- in thinking a -- a -- a  
3 mechanized pull tab, instead of video pull tab, or  
4 something to that effect. But it's the same -- it  
5 means the same thing, if that helps.

6 Q Okay. And then you continue by saying,  
7 "When Brandon arrived at the meeting, there were  
8 several extra and unexpected people in the room.  
9 Someone set Brandon up for an awkward, even  
10 uncomfortable situation by inviting  
11 representatives from the sweets -- sweepstakes  
12 vendor and the local newspaper to the meeting  
13 without telling Brandon." Did I read that  
14 correctly?

15 A You did.

16 Q What is -- what do you mean by  
17 "sweepstakes vendor"?

18 A There is a -- another machine that has  
19 been operated in fraternal organizations, I -- I  
20 think, exclusively. But, again, it seems like  
21 things have -- have come out of the woodwork, you  
22 know, since 2017. So the sweepstakes machine is  
23 also a slot machine simulator-type machine that is  
24 operated by another company, not Torch, not  
25 whoever makes the Torch machine. And so that's

1       what I'm referring to. Whoever the vendor is for  
2       those machines was there and -- and Tom had told  
3       me the story, and I'm articulating it to everyone  
4       else here of what Tom had told me had happened.

5           Q   Okay. And was it your understanding  
6       that -- the sweepstake vendors or, I guess, their  
7       trade organization or whoever was representing  
8       their interests with regards to their particular  
9       devices, was it their opinion that maybe these DGE  
10      lottery-type games were potentially illegal under  
11      Missouri law?

12           MR. FINNERAN:  Objection to the extent it  
13      calls for a legal conclusion.

14           But you may answer, if you know.

15           A   You -- you -- you confused me. The --  
16      the -- are you talking about the -- the -- the  
17      video lottery terminals of Diamond Games or are  
18      you talking about the sweepstakes machines?

19           Q   (By Mr. Craig)  I'm saying that -- well,  
20      is it your understanding that around this time --  
21      the sweepstakes vendors for those sweepstakes  
22      separate devices that you just talked about, was  
23      it your understanding that the sweepstakes vendors  
24      were expressing some concerns that maybe Diamond  
25      Games machines were illegal gambling devices under



1 Missouri law?

2 A No, I don't think so. I think it was the  
3 other way around.

4 Q What -- so the sweepstakes vendors showed  
5 up and ambushed am- -- Brandon for the purpose of  
6 explaining that they believed their games were  
7 illegal and that Diamond Games lottery devices  
8 were legal?

9 A Yes. I -- I think -- I think what -- what  
10 happened --

11 MR. FINNERAN: I'm sorry. Sorry.

12 Q (By Mr. Craig) That is interesting.

13 MR. FINNERAN: Sorry. Sorry. Sor- --  
14 sorry, Jim. Sa- -- same objection.

15 But you may answer.

16 A Okay. So I think what happened, Aaron, is  
17 that Brandon had been to this VFW and the  
18 sweepstakes machines were there. And that's a  
19 concern for his family in their business in  
20 St. Joe just like it was for Ron Kinney and his  
21 family and their business in Springfield when they  
22 showed up and found the video lottery terminal  
23 machines there or just like it was for my business  
24 and my employees when we showed up at a location  
25 and found Torch machines there.

1           So Brandon's theory and strategy and --  
2           and Tom Cobb's strategy in St. Joe was, look. You  
3           know, we're trying to make this deal with Diamond  
4           Games, and we're trying to get to where we can  
5           service those machines and -- and be involved in a  
6           legal activity with the Missouri Lottery as a --  
7           as a -- you know, through their contractor or  
8           their contract with Diamond Games.

9           So why don't we tell the guys that -- that  
10          we do business with at -- at VFW and have done  
11          business with them for generations -- the Cobbs  
12          have been in St. Joe for, like, 90 years doing  
13          that business there. It's incredible. And  
14          they -- they -- they know everybody.

15          And I think the context of this is Brandon  
16          had told the VFW guys, hey, there's a legal  
17          machine you can get from the lottery to offer.  
18          You don't need those illegal sweepstakes machines.  
19          And I actually think at that time, the -- the  
20          Missouri Gaming Commission had issued, around that  
21          time or maybe previous to that date, a letter  
22          stating specifically that the sweepstakes machines  
23          were also illegal, much like they did in July of  
24          2019 on the pre-reveal machines.

25          So -- so Brandon was trying to kind of

1 protect his business in St. Joe and protect his  
2 friends in that VFW and say, "Hey, if you're going  
3 to have the machines, you ought to get these legal  
4 machines from Diamond Games and Missouri Lottery."

5 And he went back for a meeting to talk to  
6 them about that. And meanwhile, somebody had  
7 tipped off the -- the sweepstakes vendor, and they  
8 were there. And it -- and it was -- it was an  
9 upsetting situation for Tom Cobb, my friend, to --  
10 to tell me about his son going there and being  
11 sort of -- set up is the word I used. I think  
12 that -- I used the word that Tom had used.

13 Q Yeah. No. I -- I get it. And I think  
14 it's possible you misunderstood -- you  
15 misunderstood my question --

16 A Okay.

17 Q -- because you're -- you're answering it  
18 based on what Brandon's perspective was and what  
19 I -- how I had phrased my question was. And so  
20 just so, hopefully, we're on the same page is  
21 you're saying that Brandon's position during this  
22 meeting was that the Diamond Games machines were  
23 legal under Missouri law and that he was,  
24 essentially, being potentially attacked or  
25 ambushed by this sweepstakes vendor that showed up

1 to potentially question the legality of or somehow  
2 undermine this Diamond Games expansion; right?

3 A I don't think anywhere in here I say  
4 anything about the -- the sweepstakes people  
5 saying the Diamond Games machines are illegal.

6 Q Okay. They repeatedly -- there's a --  
7 point. Okay. We'll just read. We'll read.  
8 So --

9 A Yes.

10 Q -- in the meeting? That part? You can  
11 see that?

12 A Yeah.

13 Q Okay. "In this meeting of Brandon's, the  
14 sweepstakes reps were somewhat aggressive and  
15 tried to intimidate Brandon." What -- what did  
16 you mean by that? What were the sweep- -- what  
17 were the sweepstakes reps trying to intimidate  
18 Brandon with?

19 A My recollection is that Tom told me that  
20 they threatened to sue him for interfering with  
21 their business relationship or something under --  
22 I don't know what they were going to sue him over.  
23 But they -- they -- he didn't know they were even  
24 going to be there. He thought he was going in to  
25 talk to the officers that -- that he does business

1 with and have been doing business with, and these  
2 other people are there and they were very upset.  
3 And they were trying to intimidate him and  
4 threatened him with being sued, in -- in part, is  
5 my recollection; okay?

6 Q They -- they did not want him to place  
7 Diamond Games MPTs in his VFW; right? "They"  
8 being the sweepstakes reps?

9 A No. He couldn't place them there. They  
10 didn't want him to even -- into -- they didn't  
11 want him to tell the guys at the VFW that, hey,  
12 those machines are illegal. You can't have them.  
13 You ought to contact the lottery and get these  
14 lottery machines. That -- that's what he was  
15 telling them or the auspices, if you will, of  
16 the -- the -- the meeting. And --

17 Q But he -- he's telling them that he --  
18 Brandon is telling the VFW people that he believes  
19 the sweepstake vendors machines weren't legal, but  
20 there are these other Diamond Games machines that  
21 he believes are legal?

22 A That is, essentially, what I remember.  
23 Yes.

24 Q Okay. And the sweepstakes representatives  
25 were there, basically, trying to unwind that

1       messaging and say, "Where's your basis that you  
2       claim our machines are illegal?" Would that be  
3       fair?

4           A   Yeah. I -- I wasn't there. So I'm trying  
5       to tell you what I remember Tom telling me that  
6       Brandon told him. So --

7           Q   Okay.

8           A   -- it's -- it's -- it's pretty far  
9       separated. But I think you can visualize and  
10      imagine, you know, an -- an ambush sort of meeting  
11      like that where he wasn't expecting someone to be  
12      there to be pushing back at all. He was going to  
13      explain there's this legal alternative that I know  
14      you could reach out to the lottery and ask about.

15           He -- we didn't have -- he did not have  
16      any right to place them. We weren't engaged in  
17      business with them. We had no contract. There  
18      was nothing in place. It was a good faith -- a  
19      total good faith effort is my recollection and --  
20      and -- and interpretation of what was going on  
21      there that Brandon was trying to help his customer  
22      go down the right road, instead of inadvertently  
23      doing something that -- that -- number one, why  
24      would you even want to do something questionable  
25      when you have a legal option?

1           And that -- that's just the -- the simple  
2       logic that I -- I think was going on. And the  
3       best I can describe it to you is what my  
4       recollection today is of what was happening then.

5           Q And, I think, hopefully, helpful to that,  
6       at one point here, a few lines down, you say,  
7       "They repeatedly asked Brandon to give his  
8       opinions -- his opinion if their machines were  
9       illegal or not." Do you see that?

10          A I do.

11          Q And by "they," you're referring to the  
12       sweepstakes reps; right?

13          A Yes.

14          Q Okay. So you're saying that one of the  
15       things they ambushed Brandon with during this  
16       meeting was to get him to admit or deny that he  
17       believed that their sweepstakes games were illegal  
18       under Missouri law?

19          A That's what I said. Yeah. Where I'm  
20       reading that now, that's what it says.

21          Q Okay. And then you skip down a little bit  
22       to the last paragraph before you start into the  
23       numbering. And you say, "I wanted to share some  
24       of my experience on a few things to help anyone  
25       else that might find themselves in a -- any sort

1 of similar meeting." And then you go on to talk  
2 about your opinions with respect to a number of  
3 things, including how you understand a tortious  
4 interference claim under Missouri law, how you  
5 understand sweepstakes under Missouri law, your  
6 understanding of the case Thole versus Westfall,  
7 and your understanding that opinions are not  
8 grounds for legal action; correct?

9 A There's a lot there. So --

10 Q I'm just saying, generally, those are the  
11 topics upon which you --

12 A Those --

13 Q -- that -- that you put into your letter  
14 to everybody; correct?

15 A That is the topics. Yes.

16 Q Okay. On your "one," you say this is  
17 regarding tort- -- tortious interference. "This  
18 legal term is not applicable in what Brandon was  
19 doing or did." And that's just you giving your, I  
20 guess, nonlegal legal opinion; fair?

21 A That was my opinion based on what I know  
22 about that law. I think if you read on, that's  
23 what I'm saying. That's what I say.

24 Q Okay. Skip the next things. And you say,  
25 "I'm currently involved in a tortious interference



1 case where the other party has admitted  
2 wrongdoing." Can you tell me about that case?  
3 Who was the other party?

4 A The other party in that case at that time  
5 was a company called BFC Enterprises in St. Louis,  
6 Missouri.

7 Q And what was that tortious interference?  
8 Well, first of all, what kind of -- go ahead.

9 MR. FINNERAN: Can -- can you repeat  
10 the -- can you spell the name of that company for  
11 the record, please.

12 THE WITNESS: BFC -- b as in "boy," f as  
13 in "Frank," c as in "Charlie" -- Enterprises.

14 MR. FINNERAN: Thank you. I couldn't -- a  
15 "B" or a "V." So thank you. Go ahead, Aaron.  
16 Sorry.

17 Q (By Mr. Craig) Yeah. What kind of  
18 business did -- sorry -- BFC run?

19 A An amusement business similar to TNT.

20 Q Okay. And did you sue BFC for tortious  
21 interference?

22 A I did.

23 Q And when I say, "you," was that TNT?

24 A TNT. TNT.

25 Q And you --

1           A   Yeah.

2           Q   Okay.  Did you personally sue that  
3   company?

4           A   I just said --

5           Q   I'm sorry.

6           A   TN- --

7           Q   Were -- were you personally named?  So  
8   well, on the pleading, does it say Jim Turntine as  
9   well as TNT or was it just TNT as a plaintiff?

10          A   I don't remember.

11          Q   Okay.

12          A   I -- I don't -- I don't know how it was  
13   structured from my memory.

14          Q   And what did you allege that company had  
15   done wrong in that instance?

16          A   Tortiously interfered with a -- a contract  
17   in a business relationship I had with a customer.

18          Q   Can you be a little more specific?

19          A   If you've got the time.  I mean, it went  
20   on for a long time.  But, ultimately --

21          Q   Were they just -- were -- did -- did they  
22   operate what you would classify as the same just  
23   amusement devices, nongambling devices --

24          A   Amusement devices.

25          Q   -- as you define them?

1 A Yes.

2 Q Okay.

3 A What they did was --

4 Q That -- that's fine.

5 A They --

6 Q That -- that -- that -- I -- I appreciate  
7 what you said. And with that, I'm going to --

8 A Okay.

9 Q -- not ask you for a long question [sic]  
10 because I think Rich needs to go pretty quick.

11 MR. FINNERAN: Yeah. I mean, take -- take  
12 your time, Aaron. It's -- I -- I've -- I've told  
13 them that after 1:15, I'll be available and I'll  
14 give them a call. So I -- I can be a little  
15 flexible.

16 MR. CRAIG: Okay. Well, certainly, after  
17 we get done with this document, we can take a  
18 break.

19 Q (By Mr. Craig) You say, "This is not the  
20 first tortious interference case I have been  
21 involved in during my 30 years here in middle  
22 Missouri fighting off countless aggressive  
23 competitors who have, in fact, tortiously  
24 interfered in my business." Did I read that  
25 correctly?

1           A    You did.

2           Q    Okay.  How many tortious interference  
3 cases do you think you've had to either file or --  
4 or defend against in your 30 years as you've  
5 described them here?

6           A    Hmm.  There may have only been -- I  
7 can't -- may- -- maybe one or two others and --  
8 but I -- I'm going to have to think on that for  
9 awhile.  But -- but there was other situations  
10 that were similar that I didn't have to file.  
11 Once I notified the other party that I had a  
12 contract in place and explained to them the  
13 tortious interference law, they typically would --  
14 would honor the law and -- and back off, so to  
15 speak.

16          Q    Okay.  And then -- a -- a line I've heard  
17 a lot.  Not from you.  Just in general.  The next  
18 line that you say is "I'm not a lawyer, but on  
19 this subject, I feel I can speak with some  
20 authority and knowledge"; right?  That's what you  
21 say?

22          A    Well, it sounded a little sarcastic the  
23 way you read it, but it is what I said.  Yeah.

24          Q    Yeah.  Touché.  And then you go on to  
25 explain your understanding of Missouri's tortious

1 interference law; right?

2 A I think that's what I did.

3 Q Okay. If you skip to the next page at the  
4 top, you say that based on your understanding,  
5 again, of Missouri law, you say, quote, even then,  
6 it cannot be done unless there is a provable loss  
7 attributed to the outcome of the activity." Do  
8 you see that?

9 A I do.

10 Q Okay. So is that -- is that you saying  
11 that, at least for tortious interference, you  
12 understand that out of any sort of claim, these  
13 sweepstakes guys would have to prove, not just  
14 that what he said was maybe wrong, but they would  
15 also have to show that somehow they were actually  
16 harmed by those statements; right?

17 A I don't know if I'm referring to the  
18 sweepstakes guys there. I'm just talking in  
19 general understanding of the law that if you don't  
20 have a loss, you really don't have anything to sue  
21 for. I think that's what that indicates.

22 Q Yeah. Is -- is that your just general  
23 understanding of -- of the law that you need to  
24 have a loss in order to have a claim? Is that  
25 your general understanding in general or is that

1       only confined to your understanding of tortious  
2       interference?

3               MR. FINNERAN:  Objection.  Calls for a  
4       legal conclusion.

5               But you may answer, if you know.

6               A   In general, that is my understanding from  
7       what I've been told from various legal counsel  
8       or --

9               Q   (By Mr. Craig)  Well, I don't -- I really  
10       don't -- I don't want to know -- yeah.  I don't  
11       want to -- I don't want to know what you've been  
12       told by various legal counsel.

13              A   Well, that -- that's how I got my general  
14       understanding.  I'm sorry.  But that's the truth.

15              Q   Okay.  Well, you can say -- I just -- it's  
16       safe for you to say I have a general understanding  
17       about X, but that's -- I -- I'm just saying I  
18       don't want to probe you on what you -- what  
19       conversations specifically you might've had or  
20       specifically what you were told; right?  I'm  
21       higher level.

22              A   I appreciate that.  And I'm not trying  
23       to -- you know, I'm -- I'm sorry I said that.  
24       I -- I guess I didn't need to.

25              Q   No, no.  No.  That's fine.  Okay.  And

1       then your -- your second topic here is you're  
2       giving your opinions about how you understand  
3       sweepstakes in Missouri, how sort of that  
4       framework operates; right?

5           A    I think so.   Yes.

6           Q    Okay.   And you say, "Sweepstakes tied to  
7       nonprofit charities can be legal in Missouri, but  
8       it does not mean that the sweepstakes at this VFW  
9       is or isn't."   Did I read that correctly?

10          A    I think so.

11          Q    And then your next line says, "It is not  
12       our job or responsibility to know."   Did I read  
13       that correctly?

14          A    I think so.

15          Q    Okay.   And you're saying that it's not  
16       your job, either yours personally or as, I guess,  
17       a group trade organization to know one way or  
18       another whether sweepstakes that are how you  
19       describe them are legal or illegal in Missouri;  
20       right?

21          A    That's what I said.

22          Q    Okay.   And then you go on to say, "The  
23       reality is that all gaming enforcement in Missouri  
24       has been lax for years now.   So who knows?   We  
25       certainly do not need to know."   I'll stop there.

1       What are you saying here?

2           A   I think I'm saying what I said.   I'm --  
3       I'm explaining to them, my friends, that if we're  
4       talking to somebody in similar circumstances,  
5       we -- we don't know if that machine -- at that --  
6       at that point, apparently, what I'm -- what I'm --  
7       what I'm deducing from what I wrote at that time,  
8       I didn't know the gaming commission had written a  
9       letter saying that the sweepstakes machines were  
10      illegal, because if I had known that, then I  
11      would've been saying right here, attached is a  
12      copy of a gaming letter -- a gaming commission  
13      letter stating that these sweepstakes machines  
14      are, in fact, illegal.   So I didn't do that.   So  
15      I'm saying what I said because we don't need to  
16      know.

17           And I think I told you earlier that what  
18      Brandon was trying to do, as I think all of us as  
19      we were evolving to trying to figure out how can  
20      we get involved with the lottery, how can we find  
21      a way to be a participant in something that's  
22      legal and save our business from competing against  
23      the illegal activity that's not regulated and  
24      being enforced properly, what do we do?

25           And so this is part of all of us figuring



1       that out together and me being a leader in the  
2       process here trying to help my friends know what I  
3       know and what I believe about how we handle these  
4       situations.

5               So if I was talking to one of my VFWs and  
6       they had sweepstakes machines in them and in good  
7       faith, I'm telling them, "Hey, you could -- you  
8       could call the lottery. They've got some machines  
9       that -- that are legal that will make you some  
10      money too, and you're not -- why risk breaking the  
11      law?"

12             Again, I don't mean to be repetitive, but  
13      putting it all into context, you're saying what am  
14      I trying to say? That's what I'm trying to say.

15             Q    Okay.

16             A    No. That's fair game.

17             Q    All right. If we skip down to your  
18      paragraph for where you give the recipients of  
19      this letter your opinion that opinions are not  
20      grounds for legal action, you say, "Opinions are  
21      an open door and not grounds for any sort of legal  
22      action at all"; right?

23             A    That's what I said.

24             Q    Then if you skip down, you say, "If things  
25      change, then we may find out that these particular

1 sweepstakes are legal or not. But in the  
2 meantime, if the MPTs make more money for the VFW,  
3 then they will want more when they can get them  
4 and vice versa. We pick our battles. So for now,  
5 we need to worry more about the outright gambling  
6 in gas stations and those that are inundating our  
7 bar accounts." Did I read that correctly?

8 A I think you did. Yeah.

9 Q Okay. I'm good. What did -- I guess, I  
10 should ask. Yeah. What -- what did you mean by  
11 that?

12 A What did I mean by what?

13 Q Yeah. If things change, you know, and we  
14 find out these sweepstakes are legal or not, you  
15 know, maybe -- but then you say, "In the meantime,  
16 if the Diamond Games MPTs make more money for the  
17 VFW, then they will want more when they can get  
18 them." I mean, are -- what did you mean by that  
19 "In the meantime if the Diamond Games MPTs make  
20 more money for the VFW, then they will want more  
21 of them"?

22 MR. FINNERAN: Objection. Calls --  
23 compound question.

24 But you may answer, if you understand the  
25 question.

1           A   I -- I honestly feel like the sentence  
2           speaks for itself and especially with the other  
3           information that I provided, as far as the  
4           background and the context of what was going on  
5           with our association, and we were trying to, in  
6           good faith, make a difference in -- in legal  
7           activity being informed -- people being informed  
8           about there is a legal option here. Why do  
9           something illegal? And if you can make money and  
10          things go forward and in our good faith is -- is  
11          successful, Diamond Games and the lottery would  
12          see some value in these local yokals here,  
13          these -- these small mom-and-pop businesses and  
14          want to do some business with us.

15          Q   (By Mr. Craig) And --

16          A   That's -- that's --

17          Q   If -- yeah.

18          A   That's -- that's what I was talking  
19          about --

20          Q   Right.

21          A   -- at first.

22          Q   And -- and assuming that you or -- and  
23          other operators within the trade association were,  
24          you know, brought within some sort of agreement  
25          with Diamond Games, right, the more of Diamond

1 Games MPTs that you could put into the market, the  
2 better for everybody; right?

3 A We were -- we were -- we were working on  
4 a -- an -- an arrangement that would, hopefully,  
5 allow us to -- to -- to service and place the  
6 machines. And so in good faith, we had -- we had  
7 stopped, you know, working against them and were  
8 trying to show them that we -- we can -- we can  
9 help. We can make a difference. We can bring  
10 value to the table.

11 Q And -- and also get value for yourself and  
12 your members in the process; right?

13 A And -- and help our -- help our industry  
14 in the process. Yes.

15 Q Okay. All right. I'm done with that.

16 MR. CRAIG: And then we can take a break.  
17 So take a lunch break. What do we need?  
18 Forty-five minutes? Do we need longer?

19 MR. FINNERAN: Forty-five minutes, I  
20 think, should be okay for me. Jim, is that okay  
21 for you?

22 THE WITNESS: Oh, it's fine. I'm -- I'm  
23 good with whatever you guys want.

24 MR. CRAIG: Okay.

25 VIDEOGRAPHER: This is the videographer.

1 We are going off the record. The time is 1:19 PM.

2 (Off the record 1:19 to 2:16.)

3 VIDEOGRAPHER: We are back on the record  
4 at 2:16 PM.

5 Q (By Mr. Craig) All right. We're back  
6 after lunch. I think we just got done with  
7 Exhibit 14 before the break. I'm going to mark a  
8 new document as Exhibit 15 for identification.  
9 Let me know when you've got it pulled up.

10 A I have it.

11 Q Okay. So at the top, just to identify the  
12 document, this is an email from you to Kathi  
13 Harness and Tom Cobb and Scott, the Swain Group,  
14 dated March 29th, 2019; correct?

15 A Yes.

16 Q And the subject line is "SB 431 regarding  
17 illegal gaming machines," correct?

18 A Yes.

19 Q And, just generally, this is a discussion  
20 about a proposed -- a potential proposed language  
21 for a Senate Bill 431; correct?

22 A It looks like. Yes.

23 Q All right. So if we go down to Page 2 and  
24 we start at the bottom email from Kathi Harness  
25 to -- I don't know who to, but I assume you were

1 on it. For some reason, there's no information by  
2 the "To"; right?

3 A Well, I don't know what you're looking at.

4 Q The -- the last email that shows on Page 2  
5 of --

6 A Page 2.

7 Q -- Exhibit 15.

8 A The last --

9 Q Kathi Harness, February 26th, 2019, at  
10 5:13 PM?

11 A Oh. Okay. From Kathi. Sent -- yeah.  
12 I -- I see what you're saying. It doesn't say who  
13 to. I don't know.

14 Q Glitch in the matrix. All right. That's  
15 fine.

16 A Okay.

17 Q But you see the email I'm talking about;  
18 right?

19 A I do.

20 Q Okay. And Kathi says, "Members." So I  
21 assume she's addressing that to the members of  
22 your trade organization; fair?

23 A I think so.

24 Q Okay. She says, "Please be aware that  
25 SB 431 was filed on Monday, February 25th." And

1       then she attaches -- she says, "The bill is  
2       attached." And I don't think the bill was  
3       actually attached to this email, but that's  
4       because, usually, only the top line would -- the  
5       top line email would have the attachment. So I  
6       just wanted to set the stage. She's telling the  
7       members on Febru- -- that on February 25th, there  
8       was a new Senate Bill Number 431 that was filed;  
9       fair?

10       A   That's what it looks like. Yes.

11       Q   And then she goes on to give, I guess, her  
12       general understanding of what that Senate bill was  
13       targeted to do?

14       A   Okay.

15       Q   You would agree with that; right?

16       A   What -- without reading every word, just  
17       browsing it, yeah, that looks like that's what  
18       she's giving is a summary of what that particular  
19       bill is and does.

20       Q   Okay. And then if you go to Page 3, her  
21       last paragraph. She says, "This act modifies the  
22       definition of, quote, gambling device, end quote,  
23       for the purposes of provisions of law relating to  
24       the prosecution of illegal gambling by including  
25       any device, machine, paraphernalia, or equipment

1 not approved by the Missouri Gaming Commission or  
2 state lottery commission." And then she says  
3 that's Section 572.010; correct?

4 A Yeah. That's what it says.

5 Q Were you aware of this Senate Bill 431  
6 prior to Ms. Harness's email on February 26th,  
7 2019?

8 A I would assume I was not. That is the  
9 best I can recall. But I wouldn't know how I  
10 would be if she's making me or us aware of it at  
11 that time.

12 Q Do you know was this something that  
13 Senator Schatz proposed?

14 A I don't remember. It could be. It -- or  
15 it could've been a version of one that he had  
16 proposed before. As I mentioned earlier, every  
17 year a -- a similar version would be put forth.  
18 So I -- I'm sorry, Aaron. I just don't remember  
19 every single step of the way.

20 Q Well, maybe this will help. If you look  
21 at the email right above it --

22 A Okay.

23 Q -- it's an email from you, sent  
24 March 27th, 2019, to Kathi Harness and -- and some  
25 others. And you say, "I'm thinking about a fix



1       for Dave's law dash [sic] ha ha ha." I mean, does  
2       that refresh your recollection about whether this  
3       was Dave Schatz' proposed law?

4           A   Maybe. But, re- -- remember, a lot of  
5       times, other people would file the law. And I  
6       might've just been referencing -- I know it's the  
7       same version that David proposed the year before.  
8       So, I -- I -- I'm sorry. I -- I don't know in --  
9       at this period -- I mean, this is March of 2019.  
10      I can't remember where we were in the last one,  
11      but we were further down the road. So I -- it --  
12      it could -- it -- I don't know how else to answer  
13      the question until I read more and -- and know if  
14      this is the bill that Dave was filing or not.

15           Q   Well, what do you mean by, quote, Dave's  
16      law, end quote?

17           A   Well, he had been -- as I've said before,  
18      from dating back to when we first talked about it,  
19      I think, in the summer of 2018 about what can be  
20      done about this problem, he wanted to add  
21      additional penalties to the activity to people  
22      that were convicted of the activity. And that was  
23      the -- the main purpose, which at -- I'll tell  
24      you -- whatever we can do to solve the problem,  
25      I'm -- I'm onboard. That kind of was my general

1 feeling about it. But I think, as I said before,  
2 I wasn't necessarily --

3 Q That's fair.

4 A -- feeling that the law had to be changed  
5 either, but for what that's worth.

6 Q Well, I know you keep saying that, but  
7 then, I mean, you did work very hard, and I would  
8 say almost tirelessly over a span of years to try  
9 to actually change the language in Missouri law to  
10 include Section 572.010 to, in fact, redefine that  
11 law; right?

12 MR. FINNERAN: Objection. Argumentative.  
13 Calls for a legal conclusion.

14 But, Jim, you may answer, if you know.

15 A No, I don't think that's right. I work  
16 hard at everything I do. And if I'm doing  
17 something, it might look like I've worked  
18 tirelessly compared to someone else, but I don't  
19 think that was -- it -- for what it's worth, yeah.  
20 Would I have been happy if the law passed and it  
21 helped solve the problem? Yes. But it was not  
22 the only thing I was doing to try to solve the  
23 problem.

24 Q No. I -- I will agree with that too. All  
25 right. But here, you're actually -- you're

1 saying, "I think this language could do it. I was  
2 not the best English writing student, so I need  
3 some help on where to place the commas, but I  
4 really think this language might work to stop the  
5 casino-type of black market activity while  
6 enabling everything else that has been deemed  
7 harmless to go on as it has for decades." Did I  
8 read that correctly?

9 A You did.

10 Q Okay. Well, what did you mean by  
11 "everything else that had been deemed harmless"?

12 A Things like toy cranes. Things like  
13 Chuck E. Cheese's business model. Those folks  
14 were pretty powerful and sort of similar to what I  
15 said earlier about Silver Dollar City's owner,  
16 Mr. Herschend.

17 I think you're in the political  
18 environment here, and I'm engaged with my party or  
19 my -- the people I came to the dance with. And  
20 what I'm talking about is if something's going to  
21 get passed, you have to consider those other  
22 things that you're not -- you're not trying to  
23 throw the baby out with the bath water sort of  
24 thing.

25 And you don't want to draw fire from

1 somebody that really -- nobody really had a  
2 problem or has had a problem with what Dave &  
3 Buster's does for their kids. You've been there;  
4 I've been there.

5 But if you're not careful and the law gets  
6 written so -- so strictly that then all of a  
7 sudden some -- some power-mongering Barney Fife  
8 decides to -- to, you know, make a name for  
9 himself, that's the slippery slope of trying to do  
10 things and -- and whether you believe me or not,  
11 why I kept -- I still feel like -- maybe it's not  
12 in writing. I don't know.

13 But I always felt like the law was strong  
14 enough as it was. We just needed to enforce it,  
15 and it's not been enforced. But that's aside --  
16 aside of what you're asking me now, I understand.

17 Q You mentioned crane games. I mean, can  
18 you tell me your authority to, like, what -- what  
19 case or what agency has declared that, like, crane  
20 games have an operator setting that can dictate  
21 the, you know, potential outcome of a turn on a  
22 crane game has said that those games are harmless  
23 or do not fall within the definition of gambling  
24 device under Missouri law?

25 A I don't know that it -- I don't believe --

1 MR. FINNERAN: Objection. Excuse me, Jim.  
2 Just give me a second on questions like this.  
3 Objection. Calls for a legal conclusion.

4 You may answer.

5 A I don't know that anybody has actually  
6 said what you just said or that I've heard it said  
7 that way, but I did speak with -- and I think I  
8 told you this that -- maybe in the last deposition  
9 we talked about a meeting in the early 2000s that  
10 I had had with the Missouri Gaming Commission, the  
11 entire commission.

12 And I believe our lobbyist and -- and  
13 our -- it was, again, on behalf of the Missouri  
14 Amusement Machine Association. And we were there  
15 at that time asking for guidance from the Missouri  
16 Gaming Commission on what we could tell our  
17 members and our customers and what was -- you  
18 know, to help us get some black and white into the  
19 picture of what --

20 Q (By Mr. Craig) Well, that's fine. I --  
21 I -- I understand.

22 A Okay.

23 Q You've already answered my question, like,  
24 probably a minute and a half ago when you said you  
25 don't know of any authority, which was the

1 question that I asked. So I don't -- I don't mean  
2 to be rude --

3 A Okay.

4 Q -- okay? I don't --

5 A Okay.

6 Q I don't mean to be rude, but I think  
7 you -- I think you did answer my question.

8 A Okay. I hope so.

9 Q Would -- would it be fair to say, I think,  
10 based on what you just said, that minor changes in  
11 the language of a statute could have potential  
12 significant effects that -- on -- on a given  
13 device classification?

14 MR. FINNERAN: Objection. Calls for a  
15 legal conclusion.

16 You may answer.

17 A Well, I -- I think so.

18 Q (By Mr. Craig) Yeah. And when -- that's,  
19 basically, what you were expressing here is  
20 what -- we've got to be very careful in, you know,  
21 what language we propose to potentially change  
22 Missouri's gambling -- criminal gambling statute  
23 so that we don't accidentally include some of our  
24 games in that definition; right?

25 A That's not what it says. What it says, it

1 speaks to the what I tried to add explanation to.  
2 It says what it says.

3 Q Yeah. One -- one fair reading of that,  
4 though, is, basically, we don't want the language  
5 to somehow be expanded to include, you know, the  
6 types of games, like Dave & Buster's has, Worlds  
7 of Fun has, Six Flags has, or TNT has; right?

8 A No. That's -- that's not what I was  
9 saying. I --

10 Q Do you operate any redemption machines,  
11 like Dave & Buster's?

12 A I don't know if I did at that time or not  
13 when I wrote this.

14 Q Did you operate crane games?

15 A I have some crane games, and I did then  
16 too.

17 Q All right. And, I mean, I think it's --  
18 it's fair to say what you were saying is you  
19 wouldn't want this, you know, language modified in  
20 some manner that might accidentally include one of  
21 your crane games; right?

22 A I don't -- I don't think any of my crane  
23 games would've qualified exactly as -- as -- I  
24 mean, perhaps, I -- I -- I don't know at that  
25 particular point --

1 Q Yeah.

2 A -- in time if I had a crane game that  
3 could be impacted by it because --

4 Q You know -- you know my feeling about the  
5 crane games with the operator's setting. I'm --  
6 I -- I think those are, you know, probably illegal  
7 gambling devices, given what I've learned, you  
8 know, about Missouri gambling laws now. But it's  
9 not a question. I digress.

10 So you say here -- you continue to say  
11 "This act modifies the definition of gambling  
12 device for the purposes of provisions of the law  
13 relating to the prosecution of illegal gambling by  
14 including any device, machine, paraphernalia, or  
15 equipment." And then there's some larger text  
16 that is in bold and underlined. Is that your  
17 proposed modifications that you're talking about  
18 above?

19 A Yeah. I think I was putting this forth to  
20 the group for -- for feedback of this might work.

21 Q And -- and -- yeah. And -- and you're  
22 saying that this may be something -- your language  
23 that you're coming up with here, this might be  
24 something that would be a, quote, fix for Dave's  
25 law, ha, ha, ha; right?



1           A   Yeah.  I think that all ties together  
2   to --

3           Q   Okay.

4           A   -- to say that.

5           Q   And then so after you give your opinion  
6   about, you know, how the language should be  
7   modified, you say why you believe your proposed  
8   language would be good.  And you explain, quote, I  
9   think this would allow Dave & Buster's, Worlds of  
10   Fun, Six Flags, FEC's bowling redemption centers,  
11   and Chuck E. Cheese to continue their operations  
12   as is for prizes but would stop Torch and all  
13   other black market devices in bars and all other  
14   types of locations; right?

15          A   And just need to enforce the law as is  
16   from there.  That's what it says.

17          Q   Right.  Yeah.  And -- and I -- I was going  
18   to ask you about that.  But let -- we'll get  
19   there.  We'll get there.  But you do say that you  
20   are specifically crafting this new proposed  
21   legislative language to modify Section 572.010 of  
22   Missouri's criminal gambling statutes to, quote,  
23   fix Dave's law in a manner that would allow what  
24   you call legal amusement devices to continue to  
25   operate but would, quote, stop Torch; right?

1           A   And all other black market devices in bars  
2           and other types of locations.

3           Q   Yeah. Thanks for that clarification. But  
4           with that clarification, you agree with me;  
5           correct?

6           A   Agree with what?

7           Q   My question.

8           A   What was it?

9           MR. CRAIG: Madam Court Reporter, could  
10          you please read back my --

11          MR. FINNERAN: That's what the document  
12          says is what I understood the question to be.

13          MR. CRAIG: No, it wasn't. But, Madam  
14          Reporter, could you please repeat my original  
15          question?

16          COURT REPORTER: Yes, but give me a moment  
17          to search back, please. Feel free to stop me if  
18          this is not the right question. Okay, Mr. Craig?

19          MR. CRAIG: Okay.

20          Question: "Right. And I was going to ask  
21          you about that. But let -- we'll get there.  
22          We'll get there. But you do say that you are  
23          specifically crafting this new proposed  
24          legislative language to modify Section 572.010 of  
25          Missouri criminal gambling statutes to, quote, fix

1 Dave's law in a manner that would allow what you  
2 call legal amusement devices to continue to  
3 operate but would, quote, stop Torch; right?"

4 A And my answer is, no, that's not right.  
5 It's not specifically for Torch at the end.  
6 You -- you also would have to include all other  
7 black market devices in all other types of  
8 locations as the sentence actually reads.

9 Q (By Mr. Craig) Do you understand that  
10 implication of the word "and"? I say would stop  
11 Torch and other people. It doesn't -- it doesn't  
12 mean that you don't -- that it is untrue you also  
13 wanted to stop Torch.

14 A That's not what your question was. With  
15 all due respect, you said I specifically proposed  
16 this language to stop Torch. That would single  
17 out Torch specifically. That's what the word  
18 "specifically" means to me, sir.

19 Q I didn't single out Torch. You singled  
20 out Torch. You specifically singled out Torch.  
21 And you said Torch and all other black market.  
22 And so what I'm saying is is there's no  
23 distinction in my question versus your  
24 clarification. There really isn't because I said  
25 it would stop Torch. Yeah. The answer is --

1           A   Specifically.

2           Q   -- yes, it would -- it would stop Torch  
3 and, in your opinion, it would also top these  
4 other things; right?

5           A   It would include -- it would include them  
6 all.

7           MR. FINNERAN:   Excuse me.   Excuse me.  
8 Hold on.   Objection.   Argumentative.   Compound  
9 question.

10          You may answer, if you know.

11          MR. CRAIG:   We're just talking about how  
12 the ling -- the English language functions, Rich.  
13 But, all right.

14          Q   (By Mr. Craig)   With the clarification --  
15 I'll -- I'll throw it -- I'll throw it in.   All  
16 right?   So you would agree with me that here, what  
17 you are doing is proposing completely new language  
18 that you think might be useful to including in  
19 Missouri Revised Statute 572.010, which is  
20 Missouri's criminal gambling statute, to, quote,  
21 fix Dave's law to continue to allow the operation  
22 of what you claim to be legal amusement devices  
23 while stopping Torch as well as all other black  
24 market devices in bars and all other types of  
25 locations; correct?

1           A   Sorry to be argu- -- no.   It's not  
2           correct.   If you read what I wrote, that's not  
3           what it says.

4           Q   How is that incorrect?

5           A   Well, for one thing, you said that I'm  
6           claiming that what Dave & Buster's and Worlds of  
7           Fun and Six Flags and FECs and bowling redemption  
8           centers and Chuck E. Cheese are doing is legal  
9           because I don't know that everything is legal that  
10          they're all doing.

11          But what I did say was the things that had  
12          been deemed harmless and go on as it has for  
13          decades.   So there's a distinction there that  
14          because there is a lack of enforcement, has been a  
15          lack of enforcement, there's -- there's things,  
16          like Dave & Buster's, that is significantly bigger  
17          than Chuck E. Cheese, but they both make a lot of  
18          money and do what they do.

19          At the end of the day, politically, we  
20          didn't want to draw fire from that if you're going  
21          to be successful in getting a -- a change in the  
22          law to try to solve a problem with this -- with  
23          this, by all accounts, exploding illegal slot  
24          machine activity whether -- whether it was Torch  
25          alone or others by them starting to copycat them

1       because, by now, there's been all sorts of growth.  
2       We're into 2019.

3               But the short answer is what you said is  
4       not what my writing says. And so I have to  
5       disagree. That -- that's all. That's all I can  
6       say.

7               Q   Okay. I mean, I think you actually  
8       previously did agree with what I said. You just  
9       wanted the caveat of me finishing the sentence.  
10      And, now, you're saying that even if I finish the  
11      sentence and include that you said all other black  
12      market devices in bars and all other types of  
13      locations, now you're disagreeing. That's what  
14      I'm hearing?

15              A   You heard what I said. I -- I -- I don't  
16      know what you're hearing. But what I said was, if  
17      you read what I wrote, I'm not specifically --  
18      although I don't know if there's anything wrong  
19      with specifically pointing out that Torch is a  
20      problem and we need to do something and that's  
21      what Senator Schatz is trying to deal with, but at  
22      the same time, I included the other problems that  
23      I'm aware of too. I'm a participant in a  
24      conversation about how to get a problem solved and  
25      how we can get there.

1 Q Without hurting your business; right?

2 A Without hurting anyone's business that has  
3 already been deemed harmless for decades.

4 Q Well, by who? That's the thing is -- I --  
5 I just asked you deemed by who? And you said I  
6 can't give you any authority for who's deemed  
7 these games that you didn't specify as being  
8 harmless. But I -- I take it that you include  
9 your games as among those games that have been  
10 deemed harmless?

11 MR. FINNERAN: Objection. Arg- --

12 A With all due respect --

13 MR. FINNERAN: Hold -- Jim, hold on.  
14 Objection. Argumentative. Compound question.

15 You may answer the question, if you  
16 understand it.

17 THE WITNESS: I think I understand it,  
18 Rich.

19 A And -- and, I think, with all due respect,  
20 Mr. Craig, I did try to tell you who deems them  
21 harmless and who didn't. I tried to go into the  
22 story about the early 2000s when I met, along with  
23 other members of our association, with the gaming  
24 commission and all of their enforcement people.  
25 And they, basically, tried to tell us what -- what

1       could and couldn't be done. But, also, they put  
2       it in a practical reality of but here's where --  
3       here's where we get called. Here's when we get a  
4       phone call. Here's when we're -- we're going to  
5       help enforce the law to the full extent. And if  
6       you do these things, then -- then you're going to  
7       be on the wrong side of us. So if that helps you,  
8       I hope it does. If it doesn't, I'm sorry.

9               But I know 30 -- I know 30 years -- I was  
10       just going to finish, and I'll shut up. I know 30  
11       years of -- of conversations with these various  
12       agencies and people and lawyers that I've hired to  
13       try to tell me what can I do and what can I not  
14       do. And that all comes into my head when I'm  
15       trying to share information back in 2019 with  
16       my -- with my friends and -- and the people that  
17       we're working with. That's it.

18           Q   Yeah. Oh, I -- and the example that you  
19       gave me was the Missouri Gaming Commission once  
20       told you that they didn't have a problem with  
21       your -- your games. But I think we both  
22       established the last time we talked that at least  
23       currently, the gaming commission, I think, maybe  
24       looked at their enabling statute and decided that,  
25       yeah, it actually means that we don't have any



1 authority to regulate or do anything outside of  
2 licensed casinos, excursion boats, or bingo halls  
3 in the state of Missouri; right?

4 A We just talked --

5 MR. FINNERAN: Objection. Calls --  
6 objection. Calls for a legal conclusion.

7 But you may answer.

8 A We did talk about that, and I think the  
9 conclusion of that conversation was the gaming  
10 commission's position has changed. It changes  
11 over time, and it has changed, depending on who  
12 the governor's appointed on the Board of the  
13 gaming commission, among other things. But their  
14 position --

15 Q Sorry.

16 A -- their position at times has been very  
17 strong. Other times, it's less strong.  
18 Recently --

19 Q All right. And you would agree --

20 A -- it's strong.

21 Q Yeah. You would agree with me that if  
22 their, you know, current position has always been  
23 the correct position that the enabling statute  
24 that we operate under doesn't allow us to regulate  
25 or issue any proclamations or regulations with

1       respect to places outside of our purview, then  
2       whatever they told you about, you know, your  
3       particular amusement devices, legal or illegal,  
4       that I think we can both agree are not placed  
5       anywhere inside bingo halls or Missouri casinos,  
6       right, would be moot?

7               MR. FINNERAN:  Objection.  Calls for a  
8       legal conclusion.

9               You may answer.

10              A  No, I -- I disagree because --

11              Q  (By Mr. Craig)  Okay.  Well, that's fine.  
12       That's all you've got to say.  We can agree to  
13       disagree.

14              A  Right.

15              Q  All right.  In any event, I think you'll  
16       agree with me that you were proposing here, to the  
17       other members of your trade association and your  
18       lobbyists, your thoughts on potential ways to  
19       further amend, quote, Dave's law in a way that  
20       would stop Torch and all other black market  
21       devices in bars and all other types of locations;  
22       correct?

23              A  That was my idea.  Yes.

24              Q  Okay.  And then you -- you wanted to talk  
25       about it.  So let's talk about it.  You say just

1       need to enforce the law is -- I'm sorry. You say,  
2       "just need to enforce the law as is from there,  
3       dot, dot, dot, dot"; right? What you're saying is  
4       is once we got this new language approved, then  
5       all we needed to do was enforce this new language,  
6       and then that new language would stop Torch and  
7       all other black market devices in bars and all  
8       other types of locations; correct?

9           A   That was my thought.

10          Q   Okay. Well, we can both agree that Dave's  
11       law was never passed into Missouri law; right?

12          A   That is correct.

13          Q   So this language that you proposed, at  
14       least in part, to stop Torch, that never was  
15       accepted and passed in the state of Missouri into  
16       Missouri law; right?

17          A   I don't recollect my suggestion here ever  
18       going anywhere. I think this was about as far as  
19       it went. It was not included, in my recollection,  
20       in the bill at all.

21          Q   So you -- you're saying that you don't  
22       believe this ever got funneled to even your buddy,  
23       Dave Schatz?

24          A   No, I don't -- I don't -- I don't remember  
25       that happening. I -- I think that --

1           Q   So are you saying that it may have, it may  
2   not have, but as you sit here today, you can't say  
3   one way or the other?

4           A   I'm -- I'm almost certain that this  
5   particular language that I wrote on this day did  
6   not get included in any -- any law, proposed law.  
7   Some version, some pieces could, but as it's  
8   written right there, I -- I have no recollection  
9   of that actually happening.

10          Q   All right. Then let's look at the bottom  
11   of Page 1 where Kathi Harness emails Dave Schatz  
12   and forwards this email which would include your  
13   suggestions on how to revise Dave's law. And  
14   Kathi Harness, on March 27th, 2019, at 2:46 PM,  
15   says, "Senator Schatz and Dan, as per our  
16   discussion yesterday, please see the language  
17   below to clarify the illegal gambling games and  
18   Jim's explanation." Do you see that?

19          A   I do.

20          Q   Does that refresh your recollection as to  
21   whether Dave Schatz and Senator Dan Kleinsorge  
22   were offered your proposed amendments to Dave's  
23   law?

24          A   Dan -- Daniel Kleinsorge was his  
25   administrative assistant at the time, not a

1 Senator. And I think I didn't -- I didn't say  
2 that Senator Schatz wasn't aware of my suggestion.  
3 I said I don't think it ever went anywhere. I  
4 don't think it got included in the law. That's  
5 what I said.

6 Q Well, none of this got included in the  
7 law.

8 A Right.

9 Q It's the exact way you just said.  
10 Whatever Dave's law was, as proposed in SB 431 or  
11 any other Senate bill that might have tried to  
12 amend 572.010 or other gambling statutes, none of  
13 them ever passed; correct?

14 A Correct.

15 Q All right. But my point was is did you  
16 try to influence your friend, Dave Schatz, a  
17 Senator at the time, by showing him your proposed  
18 language? And you did. Didn't you?

19 A I -- I -- I shared my thoughts with my  
20 group. Then Kathi shared it to Dave Schatz. So  
21 Dave Schatz became aware of what Jim Turntine  
22 thought. Did it get included in his bill? Did he  
23 amend his bill? I don't think so. And that's  
24 what I said and was referring to earlier. I don't  
25 think I said anything about did Senator Schatz

1       ever see what I wrote or suggested. And I don't  
2       know if he did or didn't. I can't remember. I  
3       don't think it wound up being in the bill. I  
4       don't think it went anywhere after this. Now, you  
5       might show me the next email and maybe there's a  
6       bill that had that language or some part of it,  
7       but I don't remember that actually going anywhere.

8           Q   Yeah. No. I think -- I -- I -- maybe  
9       we're --

10          A   That's what I said.

11          Q   We could maybe not be on the same page.  
12       When you said, "I don't think my proposed language  
13       went anywhere," what I heard was -- because my  
14       question was about Senator Schatz, I assumed you  
15       were saying my proposal here didn't actually make  
16       it's way to Senator Schatz. But we can both agree  
17       that that is not an accurate statement; right?

18          A   Yeah. And -- and if you interpreted my  
19       statement that way, then I apologize, Aaron,  
20       because that's not what I meant when I said it  
21       didn't go anywhere. I meant it didn't grow. It  
22       didn't take off. It didn't wind up meaning  
23       anything. That's what I meant.

24                So if you took it that way, I apologize.  
25       I don't remember you actually saying did it get to

1 Senator Schatz or the way you structured it just  
2 now isn't what I thought you said. If you said it  
3 that way, I -- I'm -- I'm sorry. I didn't  
4 interpret what you said that way.

5 Q No, and I may have misinterpreted what you  
6 said. And, now, we -- now, we're on the same  
7 page. Okay. With that clarification, we both  
8 agree that very shortly after you proposed your  
9 language we've discussed on March 27th, 2019, that  
10 Kathi Harness did, in fact, send that proposed  
11 language by yourself to Dave Schatz and his staff  
12 member; correct?

13 A I -- I agree that she sent that  
14 information on to Dave Schatz and his  
15 administrative assistant. Yes.

16 Q And she also mentions that she had  
17 discussions with Dave Schatz the day before. Did  
18 you ever learn what those discussions entailed?

19 A Not -- not that I can remember. I -- I --  
20 I would hazard to take a chance in surmising  
21 today.

22 Q I don't want you to guess. That's fine.  
23 All right. Right above that, it looks like there  
24 is another -- there's another email from a  
25 Daniel -- well, it's -- it's Daniel who is Senator

1       Schatz', I think, assistant or staff member;  
2       right?

3           A   Yes.   Daniel Kleinsorge was Dave Schatz's  
4       administrative assistant at that time.

5           Q   Okay.   And then do you know who Joshua  
6       Norberg is?

7           A   I -- I honestly don't.

8           Q   Okay.   But he's got an @senate.mo.gov.   So  
9       I assume he works in some capacity.   He was  
10      employed by the Missouri Senate; right?

11          A   Yeah.   I was just scrolling up to try to  
12      see if there was a hint there.   But I'm not sure  
13      that I've been able to comprehend from what I'm  
14      looking at who -- who he is.   I don't re- -- I  
15      don't know off the top of my head who Joshua --

16          Q   Yeah.

17          A   -- Norberg is.

18          Q   I -- okay.   That's fine.   I don't want you  
19      to speculate and guess.   But we can both agree  
20      that whoever Joshua Norberg was, he has an  
21      @senate.mo.gov email address; correct?

22          A   Yeah.   Yes.

23          Q   Okay.   And he says to Daniel, "Do you  
24      think this solves a problem?"   And then one line  
25      up, you've got Joshua Norberg responding, "I'm not



1       sure Dave & Buster's, Worlds of Fun, et cetera,  
2       would be considered gambling activities that would  
3       be captured by your bill, but Jim's language is  
4       certainly more targeted." Do you see that?

5           A    I do.

6           Q    Do you know -- I mean, then Kathi Harness  
7       actually -- I don't know. Maybe it looks like she  
8       cut and pasted or she forwarded all these emails  
9       that she received to Tom Cobb and yourself and  
10      Scott from swaingroup.biz; right?

11          A    Well, I haven't studied it enough, Aaron,  
12      to know what it looks like. If -- if you're  
13      saying that's what's -- you've got more experience  
14      than I do maybe on --

15          Q    Oh, no. I don't know. I mean, I'm just  
16      saying it -- it's -- it's in your files, and so I  
17      was wondering. It -- I think she just forwards a  
18      message that she received that contained a whole  
19      bunch of the back and forth, I guess, between the  
20      Dan, Joshua, herself, at the top; right? She's  
21      just forwarding that information to your group,  
22      whatever it is; right?

23          A    I think so. Yes.

24          Q    Okay. And then at the very top, Kathi  
25      Harness -- no. I'm sorry. At the very top, you

1 email Kathi Harness on 3/29/2019. And you say, "I  
2 have read it and like it." I assume that you are  
3 saying that you read and liked something besides  
4 the language that you proposed on Page 2. But  
5 tell me if I'm wrong.

6 A Okay. Okay. It says, "I have read it and  
7 I like it. It does have our suggested language  
8 included. I could not see it yesterday using my  
9 iPhone only." So what was your question again?  
10 I'm sorry, Aaron.

11 Q Yeah. I -- I think if you -- if you read  
12 your whole message there, how I interpret that is  
13 that you are saying that you have, since your  
14 prior discussion, saw a draft of Dave's bill that  
15 now includes your suggested language. Would that  
16 be consistent with your understanding of what  
17 you're saying?

18 A That -- that's what I think I'm saying  
19 there. So it -- maybe it -- maybe it was in there  
20 for a time. I -- I don't know. I -- I can't  
21 remember. But that's what it seems to say.

22 Q Okay.

23 A So maybe it did get included and I could  
24 stand corrected.

25 Q And you liked seeing your own language in

1       that proposed bill; right?

2           A   Well, that's what I said.   Yeah.

3           Q   Okay.   Actually, I think this next exhibit  
4   might help maybe.   So I've marked what's been  
5   marked for identification as Exhibit 16, which is  
6   an email from Jim Turntine to Donna Havey, Marla  
7   Turntine.   Subject:   New gambling law.   And  
8   there's an attachment that seems to be the new  
9   proposed Senate Bill 431; right?

10          A   It looks like it.   Yes.

11          Q   And do you know if this version contained  
12   the language that we just talked about that you  
13   proposed?

14          A   I don't know yet, but I suppose, if we  
15   looked through it.   And you may already know, so I  
16   don't know yet.

17          Q   If I knew, I would have specifically asked  
18   you.   I'm looking too.

19          A   It looks like, on Page 19, some of -- some  
20   of the suggested language is in there.

21          Q   Okay.   I mean, I -- I don't -- I don't  
22   know, obviously.   But, I mean, as you sit here  
23   today, do you think that this is what you saw and  
24   you were responding to in that prior email?   And I  
25   don't want you to speculate, but I just saw it,

1 saw the dates were similar and wanted to ask you a  
2 question.

3 A I'm -- I'm guessing. You know, I'm sorry.  
4 I mean, I would have to speculate.

5 Q No. That's fine. I don't want you to  
6 guess.

7 A It seems like it could be. Yeah. Yeah.

8 Q Yeah.

9 A It seems like it could be. I mean, it  
10 makes sense that it would be.

11 Q Okay. But you don't know one way or  
12 another for certain; right? Fair?

13 A Yeah. I don't -- is there a date on this  
14 when it's put -- put out or -- a lot of times  
15 there's a date.

16 Q There isn't actually, which was one of the  
17 conundrums that I had. I can't tie it any more  
18 other than the -- the date, I think, of the -- the  
19 final that we got was marked, I think, 2019,  
20 March, on the 29th. But there is no -- yeah.  
21 There's no time stamp actually on the document.  
22 So that's fine. It's fine. We can -- we will  
23 forever wonder.

24 All right. I've marked a new document as  
25 Exhibit 17 for identification.

1           A    Okay.

2           Q    And this is a email communication, a  
3 couple emails between yourself and Donna  
4 Harvey [sic]. The top email, Friday, 4/5/2019.  
5 Subject line: Re: Boards; correct?

6           A    Yes.

7           Q    Okay. And the bottom email is from Donna  
8 Harvey [sic] on April 5th at 2:57 PM. And she  
9 says, "Jim, I been looking through RePlay magazine  
10 and didn't see the Torch boards, so I started  
11 looking online. I have found a lot of boards that  
12 may be close, but none of them so far. I have  
13 found the feature of letting you know if you will  
14 win on your next spin or not.

15               'I asked Michelle [sic] how I can tell if  
16 they are the exact same -- the exact boards, and  
17 he said, "Hard to tell without matching them up.  
18 This is the company that my search OD Torch  
19 Electronics kept leading me to, but hard to tell  
20 from there." And, first of all, did I read that  
21 correctly?

22           A    I think you did.

23           Q    Okay. And your instruction to Donna was  
24 call them to discuss; correct?

25           A    That's what it says. Yes.

1           Q   Okay.  Now, is this -- does this email  
2           show -- well, let's back up.  I think you  
3           previously told me that at some time in or before,  
4           I guess, July of 2019, TNT bought its own  
5           Banilla-type no chance device; right?

6           A   That is right.

7           Q   Okay.  And I -- am I correct in assuming  
8           that this is part of the hunt for a no chance type  
9           pre-reveal device that you believed would be the  
10          same as a Torch device?

11          A   I think that that is probably what was  
12          going on here.  We were trying to find out more  
13          about the machine and where they came from, it  
14          seems, which I don't remember this part, but I  
15          know that they came from Legacy Distributors in  
16          South Carolina.  So that -- it's clear to me now.  
17          I don't know why then we didn't know.  But,  
18          apparently, at that point, we were looking trying  
19          to understand and find out where they come from.

20          Q   Okay.  Thank you.  All right.  I've  
21          marked --

22               MR. FINNERAN:  Aaron, I know we're only  
23          about an hour in, but I could use a break in a few  
24          minutes whenever you get to a stopping point.

25               MR. CRAIG:  All right.  Yeah.  Since I

1 just marked this one, can we talk about this and  
2 then we'll take a break?

3 MR. FINNERAN: Yeah. Sure.

4 Q (By Mr. Craig) Okay. So I've just  
5 revealed and marked Deposition Exhibit 18, which  
6 at the top, for identification, is an email sent  
7 from Tom Cobb to yourself with a cc to a whole  
8 bunch of people on April 17th, 2019; correct?

9 A I see that.

10 Q Okay. And if we start at the first email  
11 chronologically, it would be your email on  
12 April 17th, 2019, at 9:59 AM; right?

13 A I see -- yeah. I see that.

14 Q It doesn't say who you wrote that email  
15 to. Do you remember the individuals that you sent  
16 that email that follows below to?

17 A I -- I don't remember, and I don't know  
18 why it doesn't show it either.

19 Q Okay. You say, "Good morning. The news  
20 is measured and still fluid. Don't kill this  
21 messenger. Good news is that yesterday, the  
22 governor signed the supplemental fiscal year 2019  
23 which should mean we can get back to work helping  
24 to arrange for meetings and placement of the  
25 remaining 100 MPTs of the 375."

1           Okay. I'll stop there. I believe, now, I  
2       have a little bit better understanding of what was  
3       being discussed here. We're talking about your  
4       and your group's efforts now to help place more of  
5       the Diamond Games MPT games in locations in  
6       Missouri; correct?

7           A   That is correct.

8           Q   And then you say, "And we should finally  
9       get paid for our work through this date." Get  
10      paid for what work?

11          A   We were -- had been in good faith working  
12      with Diamond Games to -- to -- you know, to help  
13      turn the corner and promote the placement of the  
14      MPTs and had been promised that if -- if we were  
15      of value and useful and helpful that -- that we  
16      could enter into an agreement with them to -- to  
17      get -- to get paid, our industry, and -- and the  
18      people that could help place the machines and  
19      service the machines.

20          And I don't remember when we did finally  
21      reach an agreement with them or -- or I have to --  
22      I have to look, but we -- we had been in -- for  
23      some time trying to get into a deal with Diamond  
24      Games that we could begin to establish a  
25      relationship and a -- and an opportunity for our



1 industry.

2 Q Okay. And then if you go -- let's skip  
3 ahead because this is a very long email that you  
4 wrote. Let's go to Page 2. And I want to start  
5 on the new paragraph that says, "On this same  
6 front." Do you see that?

7 A Let me find -- it is a long email or a  
8 long message, whatever. I don't see "on the same  
9 front."

10 Q It's right after a sweepstakes. Right  
11 about the middle of the page. "On this same  
12 front, I'm working with Senator Brown and Schatz."

13 A I don't see it. I'm still not seeing it.  
14 You said on Page 2.

15 Q Yes. Page 2 of 3. Just what -- there's a  
16 paragraph break.

17 A I found it. On this same front. Okay.

18 Q Yeah.

19 A So there's a lot above it, so I don't know  
20 what the front is.

21 Q Sure. And I'm -- I'm going to ask you a  
22 question. And if you need time to read what's  
23 above it to get context, that -- that's totally  
24 fine with me. Well, actually, I mean, go ahead.  
25 Go ahead and read. I don't want to --

1           A    Okay.

2           Q    I don't want you to feel like I'm trapping  
3   you here.  Go ahead and read what you need to read  
4   there.  Let me know when you're done.

5           A    Okay.

6           Q    Are you still reading, Jim?

7           A    Yeah.

8           Q    Okay.

9           VIDEOGRAPHER:  This is the videographer.  
10  Are you wanting to go off the record for this?

11          MR. CRAIG:  Well, I don't know.

12          Q    (By Mr. Craig)  How much longer do you  
13  think you need, Jim?

14          A    I'm down to where it says, "on this same  
15  front."

16          Q    All right.  Good.  Okay.  So about midway  
17  through, on Page 2, you say, "On this same front,  
18  I am working with Senator Brown and Schatz to  
19  coordinate with five county prosecutors along I-44  
20  (Franklin, Crawford, Phelps, Pulaski, Laclede) the  
21  state's patrol Division of Drug and Crime Control  
22  (DDCC) and the state's attorney general's office  
23  to designate a special prosecutor altogether to  
24  investigate, confiscate, and prosecute the Torch  
25  Electronics business model."  Did I read that

1       correctly?

2           A    You did.

3           Q    Okay.  It sounds to me like you, in  
4       connection with two then Missouri Senators were  
5       leading an offensive aimed specifically to  
6       investigate, confiscate, and prosecute the Torch  
7       Electronic business model; correct?

8           A    It sounds like that.

9           Q    Well, and, in fact, that is exactly your  
10      intention, wasn't it?

11          A    I had hoped we could.  Yes.

12          Q    And you say, "Prosecutor Dave Smith, in  
13      Crawford County, has taken the lead in acquiring  
14      the support and coordination of these other state  
15      and multi-jurisdictional local resources to  
16      activate a task force specifically to deal with  
17      the proliferation of Torch's business model;  
18      correct?

19          A    That's what it says.

20          Q    Okay.  Now, Phelps County is the county  
21      that we talked about previously where that  
22      prosecutor had told you or at least you had seen  
23      where he had been telling other people that he  
24      looked at the law and he thought Torch's devices  
25      were illegal under Missouri criminal gambling

1 laws; right?

2 A That is right.

3 Q And I take it you were never able to  
4 convince -- you, along with Senator Brown or  
5 Senator Schatz, were never able to convince  
6 Pulaski County's prosecuting attorney that you  
7 were correct and he was mistaken; correct?

8 A I don't remember talking to the Pulaski  
9 County or Laclede. I remember talking to Crawford  
10 and Franklin. And that's about all I remember of  
11 all of that.

12 Q Well, as far as you're aware, Phelps  
13 County, there was never any charges brought by the  
14 Phelps County prosecutor against Torch or related  
15 to Torch devices to this day; right?

16 A Not -- yeah. Not that I'm aware of.

17 Q Okay. How about Pulaski? Are you aware  
18 of any cases filed by the Pulaski County  
19 prosecutor against Torch or Torch devices?

20 A For some reason, I thought there -- I --  
21 I -- I'm going to say "no." I -- I don't think so  
22 but --

23 Q How about --

24 A -- I don't know.

25 Q How about Laclede County? Same answer?

1           A   That is Lebanon.  I don't know.  I -- I --  
2   I don't know.

3           Q   Okay.  Did you have any conversations with  
4   Prosecutor Dave Smith from Crawford County  
5   regarding your plans for this offensive against  
6   Torch Electronics?

7           A   I do remember having a conversation with  
8   Dave Smith, and I don't know why I  
9   characterized -- frankly, I -- I seemed to be  
10   pretty excited about things that were going on at  
11   that time.  I don't remember why I characterized  
12   this activity in the way that I did here.  But,  
13   yeah, I do remember having a conversation with  
14   Dave Smith.

15          Q   Was Senator Brown and/or Senator Schatz  
16   also involved in those communications?

17          A   I don't think so, unless there's emails  
18   that they were copied on.  I don't think so.

19          Q   So is it your testimony that neither  
20   Senator Brown nor Senator Schatz ever petitioned  
21   Prosecutor Dave Smith of Crawford County, you  
22   know, on -- on your behalf to look in or  
23   investigate, confiscate, or prosecute Torch  
24   Electronics as you represented was your intention  
25   here?

1           A    To my knowledge, no. I think I probably  
2           over spoke or outspoke or misspoke, whatever the  
3           right -- I -- I don't know that Senator Brown ever  
4           did anything. I do know that Senator Schatz had  
5           followed up with Franklin County's prosecutor,  
6           Brendon -- not Brendon. What's his -- I've  
7           forgotten the Franklin County prosecutor's name,  
8           but I know that Senator Schatz did have a  
9           conversation, because I was there, with the  
10          Franklin County prosecutor. I don't remember if  
11          it was -- it wasn't during this time frame. It  
12          was much later in 2019. So, you know, again, I  
13          seemed to have been pretty excited about all the  
14          things that were going on at this time and  
15          completely misspoke in this section of what I  
16          wrote.

17          Q    What do you mean you misspoke?

18          A    Well, I'm saying there was a task force,  
19          and I don't think there ever was one. I -- I  
20          might've been thinking we're headed this direction  
21          and I -- I -- I over -- I over spoke where we  
22          actually were, and I don't think we ever wound up  
23          succeeding or achieving anything. I couldn't even  
24          get the Phelps County prosecutor on the phone. So  
25          in the -- in my excitement of -- of trying to

1 catch up all of my friends on what I thought was a  
2 lot of progress, I flat out misstated some things  
3 here, and I feel bad about that today. Reading it  
4 right now, I feel a little bit silly because it  
5 dealt with --

6 Q What I hear -- I -- I mean, what I hear  
7 you saying is is although these are things that I  
8 wanted and intended to do, I feel silly because  
9 they didn't come to fruition; is that fair?

10 A I think that -- I think that's a fair -- I  
11 had hoped to accomplish some good things for  
12 our -- for our side.

13 Q But you don't deny that it was your  
14 intention at this time, in April 2019, to work  
15 with Senator Brown and Schatz to coordinate with  
16 five county prosecutors along I-44, including  
17 Franklin, Crawford, Phelps, Pulaski, and Laclede,  
18 the state patrol's Division of Drug and Crime  
19 Control, and the state attorney's -- attorney  
20 general's office to designate a special -- special  
21 prosecutor altogether to investigate, confiscate,  
22 and prosecute the Torch Electronics business  
23 model; correct?

24 A That's -- that's -- that's -- that's what  
25 I hoped to do. Yes.

1           Q   I -- had -- had you -- I mean, you  
2           mentioned you tried to kind of back off the  
3           Senator Brown aspect, but had you -- previously  
4           before sending this out, had you actually worked  
5           with Senator Brown towards that coordinated goal?

6           A   And -- and the terminology "working with"  
7           is probably not right. I had spoke with him in  
8           the capitol, I think, and he seemed to be just as  
9           upset about the proliferation of the slot machines  
10          as I was and -- and many others in the capitol.  
11          And I think that's why I characterized it that  
12          way. I felt like he was going to follow-up.

13          I think that was what was -- we were each  
14          going to see if we could get some -- something  
15          started with -- with some sort of enforcement, law  
16          enforcement. And I think Senator Brown may  
17          have -- and, again, I'm trying to work out of  
18          memory, because if I didn't remember even writing  
19          this, I can't remember everything that was in --  
20          in it or made me write it, but I -- but I think  
21          Senator Brown may have indicated he would give the  
22          Pulaski County prosecutor a phone call because I  
23          think that's where he lives. And that's the best  
24          recollection I can give you of -- of that.

25          Q   Okay. And I think you would agree with me



1       that, in fact, you and Senator Schatz did work  
2       together to coordinate with at least one of these  
3       five county prosecutors to specifically  
4       investigate, confiscate, and prosecute the Torch  
5       business model, that prosecutor being the Franklin  
6       County prosecutor; correct?

7       A   We did go visit the Franklin County  
8       prosecutor. I've -- I've said that multiple  
9       times. And asked if he would prosecute, if he has  
10      a probable cause statement from the state patrol  
11      investigators who investigate all of the crimes  
12      that are reported to the Missouri Gaming  
13      Commission.

14      Q   Right. You and Senator Schatz; right?

15      A   We both visited that county prosecutor.  
16      Yes.

17      Q   And then -- and I think when we talked on  
18      the 19th of October, you said that it was after  
19      that meeting that the Franklin County prosecutor  
20      did go ahead and pursue criminal charges against  
21      James McNutt for alleged possession of illegal  
22      Torch devices?

23      A   Some -- some time later. Yes.

24      Q   Okay. All right. We're done with that  
25      exhibit.

1 MR. CRAIG: And let's take a break.

2 How long do you need, Rich?

3 MR. FINNERAN: If I could get ten minutes,  
4 that would be great, Aaron.

5 MR. CRAIG: Ten sounds good. All right.  
6 We'll see everybody in ten.

7 VIDEOGRAPHER: This is the videographer.  
8 We're going off the record. The time is 3:24 PM.

9 (Off the record 3:24 to 3:37.)

10 MR. CRAIG: All right. We're back on the  
11 record after that break.

12 Q (By Mr. Craig) Okay. I'll show you  
13 another document. It's going to be marked as  
14 Exhibit 19 for identification with a sticker.  
15 Okay. So identi-- Exhibit 19. Start over.

16 So you have in front of you what's been  
17 marked as Exhibit 19 for identification which  
18 starts with an email at the top from Kathi Harness  
19 to Tom Cobb, yourself, Ron Kinney, and then cc's a  
20 number of other people; correct?

21 A Yes.

22 Q And this is dated 4/18/2019; correct?

23 A Yep.

24 Q Okay. And if we scroll down to Page 4 --  
25 nope. I'm sorry. Page 3. I believe you'll see

1 the same email that we just spoke about on your  
2 April 17th, 2019, email. Do you see that?

3 A Yes. It looks like the same content.

4 Q Okay. And then that gets forwarded in a  
5 new and slightly different chain. And if we go  
6 to -- well, the -- the next line up, you've got  
7 Tom Cobb responding to your email and copying  
8 the -- the rest of the members of the group and  
9 saying, "Jim's assessment of our current situation  
10 is correct and detailed. Not exactly where we  
11 expected to be. Also not what we promised -- I'm  
12 sorry. Also not what we were promised to be last  
13 week, but that is Jeff City and who we have to  
14 deal with. It seems like we've been on an  
15 emotional roller coaster for almost two years.  
16 One step forward and two steps back."

17 So anyway, he's responding to your -- your  
18 email. And then you respond to that email, on  
19 April 18th, 2019, at 9:04 AM. And you write, "The  
20 news is not good. I'm sorry. Yesterday, Senator  
21 Lincoln Hough, Vice Chair of the Senate  
22 Appropriations Committee, failed to accomplish his  
23 promise of getting our desired language in the  
24 2020 budget." Can you tell me what language  
25 you're talking about there in the 2020 budget?

1 Was that language for the Diamond Game devices  
2 we've been talking about or something else?

3 A No. It's Linc- -- it's -- Lincoln Hough  
4 is a Senator. It's -- it's Lincoln Hough. And  
5 the language, I don't -- I don't remember exactly  
6 what the language was. But what I can tell you,  
7 Aaron, is that the -- the pull tab program by --  
8 well, a few years earlier had become a line item  
9 issue in the budget so that it was controlled by  
10 the legislature, af- -- essentially, after our  
11 memberships having complained the solution to  
12 getting the legislature kind of in control of what  
13 was going on with the lottery and this -- this  
14 pilot project, that it -- that it made us fearful  
15 of being in competition with it, was to make it a  
16 line item issue in the budget to pay Diamond  
17 Games.

18 And so the budget language had to be  
19 adjusted every year in order to deploy any more  
20 than a certain number, whatever the previous  
21 year's number was or whatever the number has been.  
22 And I think we were hoping to get 500 machines  
23 approved and -- and they knew what they made. So  
24 they would actually create a number in the budget  
25 that would cover that number of machines.

1           And so as I recall and as I think I'm  
2       seeing here a little bit, that we have been told  
3       that they were going to allow 500 of these pull  
4       tab machines, but it wound up being 375. I think  
5       that's what happened that year.

6           And, of course, our effort was a still  
7       trying to show value and help Diamond Games and  
8       the lottery and do good things so that we could  
9       show value for us in our industry to be able to  
10      become a working subcontractor to Diamond Games,  
11      the contractor to the lottery. Does that make  
12      sense?

13          Q   Yeah. It does.

14          A   Okay.

15          Q   Thank you.

16          A   You're welcome.

17          Q   I'm marking Deposition Exhibit 20 for  
18      identification. Let me know when you can see it.

19          A   I see it.

20          Q   Okay. And at the top of Exhibit 20, we've  
21      got an email from Kathi Harn- -- I'm sorry. We've  
22      got an email from yourself, Jim Turntine, to Kathi  
23      Harness, Emily Carroll, Tom Cobb, Tom Newman, with  
24      cc's to Scott Swain and Casey Wasser; correct?

25          A   Yep.

1 Q And that's dated June 3rd, 2019; correct?

2 A Yes.

3 Q And then if you look down, one, two -- two  
4 down, there's another email from you to the same  
5 group of people, dated the same day, but just a  
6 bit earlier. Do you see that one?

7 A I think I see the one you're talking  
8 about.

9 Q And there you say, "I need some help as I  
10 am continuing to work strategies to kill the black  
11 market. Can someone remember the number down that  
12 the lottery is and we attribute to Torch  
13 Electronics and black market gaming?" Do you see  
14 that?

15 A I do.

16 Q Okay. What strategies to kill the black  
17 market are you talking about there?

18 A I don't remember exactly what, but I  
19 remember that that was during that summer of 2019,  
20 there was a special House subcommittee put  
21 together because, as I mentioned in my long  
22 extrapolated email in the last exhibit, that --

23 Q Just -- I'm -- I'm sorry. I don't want to  
24 cut you off again. But I asked you a question,  
25 and you said, "I don't remember" to answer my

1 question.

2 A I -- I don't remember what that strategy  
3 was. No.

4 Q Okay. All right. That's good. I mean --

5 A Okay.

6 Q -- it's not good that you don't remember.  
7 I'm just saying that's a sufficient answer to the  
8 question that I asked.

9 A Fair enough.

10 Q Okay. Okay. I've marked a new exhibit --  
11 a new document as Exhibit 21 for identification.  
12 Let me know when you see that document.

13 A I see it.

14 Q Okay. So this is an email from yourself  
15 to Kathi Harness and a number of other people sent  
16 Thursday, June 20th, 2019; correct?

17 A I see that. Yes.

18 Q Subject line: Re: House interim  
19 committee on gaming named; right?

20 A Yes.

21 Q And then if you look at the second  
22 paragraph, you write to the group, "As an update  
23 on another note, one of the things I have been  
24 doing to help make something happen on the black  
25 market gaming crisis is to have my attorneys

1 investigate if I can sue Torch Electronics for  
2 tortious interference in some of my locations  
3 where they have placed illegal games because I  
4 can't provide same. They've informed me that I  
5 can and that during the discovery process, we will  
6 demand a machine be submitted to the Missouri  
7 Gaming Commission for them to determine if the  
8 machines are illegal or not. We already know they  
9 are not and well remember them telling us, quote,  
10 if it looks like a duck, quacks like a duck, it's  
11 a duck, exclamation mark, end quote." Did I read  
12 that correctly?

13 A You did.

14 Q Okay. So you're telling everybody, I  
15 guess, what you told your attorneys and then also  
16 what your attorneys told you in this section?

17 A I'm -- I'm sorry. Now, let's -- are you  
18 talking about that last sentence how I was  
19 referring to what the attorneys told me?

20 Q No. I'm saying within this, you're saying  
21 that I have asked my attorneys to investigate if I  
22 can sue Torch for tortious interference at some of  
23 my locations. So you're telling the group what  
24 you have asked your attorney, as far as a legal  
25 opinion, about whether or not you have claims --



1 potential claims for tortious interference you  
2 could file in some of your locations; right?

3 A That is correct. Yes.

4 Q Okay. And then -- then you go on to tell  
5 the group what it is that your attorneys said in  
6 response to that request for legal advice by  
7 saying, "They've informed me that I can and that  
8 during the discovery process, we will demand a  
9 machine be submitted to the Missouri Gaming  
10 Commission for them to determine if the machines  
11 are illegal or not"; correct?

12 A That is what it says. Yes.

13 Q All right. I -- we'll just -- hold on.  
14 The next paragraph, you say, "This civil action  
15 could seriously speed up the process of getting  
16 that legal determination made"; right?

17 A Correct.

18 Q Okay. So you're looking for new creative,  
19 I would say, law fair ways to potentially get the  
20 gaming commission to somehow intervene on your  
21 behalf to make a determination about Torch's  
22 devices; fair?

23 MR. FINNERAN: Objection. Argumentative.

24 You may answer.

25 A It's fair for you to say that.

1           Q   (By Mr. Craig)   Okay.   So we agree that  
2           that's a fair statement for me to say?

3           MR. FINNERAN:   Same objection.

4           A   It's fair for you to say that.   If you're  
5           saying that I'm -- you used the term "law fair,"  
6           which I think is a play on the word warfare or  
7           something.   I don't know what you're intimating  
8           there.   I'm -- I'm working on strategies to get  
9           the law enforced to solve the problem of the  
10          illegal gambling machines.   That's what it says to  
11          me.   That's what I would say.

12          Q   You're working on ways to potentially file  
13          your own lawsuit, but not just that, get the  
14          Missouri Gaming Commission to come in and  
15          intervene in some manner to do the thing that you  
16          want, which is, hopefully, declare Torch devices  
17          illegal; right?

18          A   I think so.   Yes.

19          Q   Okay.   And this is June 20th of 2019;  
20          right?

21          A   Yes.   Yes.

22          Q   Okay.   You go on to say, "The first  
23          question about this strategy from my attorneys."  
24          So you're telling this group, again, what it was  
25          that your attorneys informed you about this

1 strategy; right?

2 A I think so. Yeah.

3 Q And you go on to say -- so I'll -- I'll  
4 just repeat it. "The first question about this  
5 strategy from my attorneys is will the gaming  
6 commission have to be forced to get involved when  
7 we submit to them that they will be receiving a  
8 gaming device to make said determination or will  
9 they gladly get involved in this civil matter?"  
10 Did I read that correctly?

11 A You did.

12 Q So, what, your attorneys ask you your  
13 opinion about whether the gaming commission would  
14 be forced to get involved or whether they would  
15 gladly get involved in this civil matter you might  
16 file against Torch?

17 A I think that's what it says that there was  
18 a question or a concern that the gaming commission  
19 would help or not willingly.

20 Q Okay. And then you tell the group what it  
21 was that you responded to your attorney. And you  
22 say here, "I said I would ask Senator Schatz to  
23 inquire, which he is doing that now." That's what  
24 you said; right?

25 A That's what it says. Yes.

1           Q   Okay.  So, again, you're telling this  
2           group what it was that your lawyers asked you  
3           questions about the strategy and then what it was  
4           that you told your lawyers about the strategy;  
5           correct?

6           A   I'm sorry.  Say that again.  I -- I was  
7           distracted.

8           Q   I'll withdraw the question.

9           A   Okay.  Sorry.

10          Q   Well, no.  That's fine.  You continued to  
11          say "he contacted," and I am assuming now that  
12          when you say "he," you meant Senator Schatz; is  
13          that correct?

14          A   I believe I did.

15          Q   Okay.  "So Senator Schatz contacted the  
16          Senate's legal council to start the process and  
17          said he thinks the lottery ought to file their own  
18          civil case so I do not have to."  Did I read that  
19          correctly?

20          A   You did.

21          Q   Okay.  Well, I'm -- I -- okay.  So do you  
22          think he meant Senator Schatz or do you think he  
23          meant your attorney?

24          A   He meant Senator Schatz.

25          Q   Okay.  And then when you say, again, "and

1       said he thinks the lottery ought to file their own  
2       case," the "he" there is who?

3           A    The "he" is -- is Senator Schatz.

4           Q    Okay. And then you say -- I think your  
5       last paragraph or -- or your last sentence is,  
6       "And look into what might have to be done to get  
7       the gaming commission to evaluate the device that  
8       we intend to get Torch Electronics to turn over to  
9       the gaming commission via my proposed civil suit."  
10      Do you see that?

11          A    I do.

12          Q    Okay. After this, you did file a lawsuit  
13      against Torch in state court; correct?

14          A    I believe we did. Yes.

15          Q    Okay. And that case was pending for, I  
16      don't know, a little over two years; fair?

17          A    I don't remember the amount of time  
18      exactly. I'm -- I'm sorry. But it -- it -- it --  
19      it -- it took quite a while.

20          Q    Okay. And you would agree with me that at  
21      no time, however long that litigation was or  
22      discovery went on, did you ever succeed in  
23      requesting or getting a Torch device for  
24      inspection by either yourself or the gaming  
25      commission; true?

1           A   No.  No, we did not.

2           Q   So it is true that during that time that  
3   your Missouri state court case was pending against  
4   TNT that you did not, through discovery, ever get  
5   an inspection of a Missouri -- of a Torch device;  
6   correct?

7           A   Not -- I did not.  No.

8           Q   And your lawyers didn't on your or TNT's  
9   behalf; correct?

10          A   Not related to our tortious interference  
11   case at all.  No.

12          Q   And that tortious interference case,  
13   that -- that is the same case that was dismissed  
14   the day before this case, in the Eastern District  
15   case, was filed on March 15th of this year;  
16   correct?

17          A   I believe it was.

18          Q   Yeah.  So and -- and then in -- in this  
19   case, I deposed Stacy Friedman just the other day,  
20   and he told me that he was retained on March 2nd,  
21   I believe.  It was the 1st or 2nd of 2023.  Does  
22   that sound about right to you?

23          A   It could be.

24          Q   Okay.  And he also told me, I think  
25   consistent with what you told me the first time

1       that we spoke on October 19th, that shortly after  
2       you retained him in March, that you sent him a  
3       device that TNT had independently purchased  
4       through a distributor that you believed was the  
5       same Banilla device that Torch operated in  
6       Missouri; correct?

7           A   Certainly similar to, but it was the -- it  
8       was the machine that a distributor told me was  
9       what Torch had been purchasing, and we had  
10      purchased it originally for the -- you'll -- you  
11      might remember. It was about this time in 2019  
12      when the VFW, Nathan Howard, who has a bingo --

13           Q   But we'll --

14           A   -- machine --

15           Q   We'll -- yeah. We'll get to that.

16           A   -- machine --

17           Q   We will -- yeah. We will get to that.

18      But for now --

19           A   -- which is -- it's the same machine is  
20      what I'm trying to say, Aaron.

21           Q   Okay. Yeah. So, yeah.

22           A   The same machine that we bought for the  
23      VFW in Saint James and submitted to the gaming  
24      commission is the same machine that I eventually  
25      sent to Mr. -- Stacy Friedman is the last name, I

1 think it is.

2 Q Right.

3 A Well, so, yeah, to that degree. And --  
4 and it was a Banilla machine. Is that what you're  
5 asking me?

6 Q Yes. Yes. Okay. I want to mark your  
7 prior testimony on October 19th as Exhibit 22 for  
8 identification. Could you open that up for me?

9 A It's not here yet.

10 Q It will actually be document one because  
11 it was the first one that I revealed.

12 A Oh, okay.

13 Q Give me a second. It's real long.

14 A Sure. Yeah. It is.

15 Q Okay. One downfall of Agile Law is  
16 there's no ability to search within it. Give me  
17 one second. Apologies, but I'm fighting with  
18 technology. Bear with me.

19 Okay. So if you would, turn to Page 147.  
20 And because it's long, you can -- you can click  
21 where it says, you know, 1/369. You can click  
22 that and just type in 147, and it'll take you  
23 right to the page.

24 A I'm there.

25 Q Okay. And, I guess, just for context, if



1       you'd go one page up and you look kind of towards  
2       the bottom of Page 144, where you start and you  
3       say, "And ultimately, I offered to buy a machine."

4       Do you see that?

5             A   Which page?

6             Q   144.

7             A   Okay. 144.

8             Q   Last par- -- last full paragraph on 144.

9             A   Okay.

10            Q   "And ultimately."

11            A   I see it.

12            Q   Okay. So I'll just represent to you this  
13       was, you know, when we were talking about how that  
14       July 2019 meeting with the MGC came up -- came  
15       about, and you told me, "And ultimately, I offered  
16       to buy a machine for them to approve, for them to  
17       test, for them to interact with because they  
18       didn't have one or have access to one at that  
19       point." Do you see that?

20            A   I do.

21            Q   Okay. And then you confirm that you did,  
22       in fact, buy one of those Banilla games from -- I  
23       think it was Ed Chermak [sic] from Legacy Coin?

24            A   Ed Chermak, Legacy Coin. Yes.

25            Q   And then if you go to the bottom of

1 Page 145, you say, "But I knew they were the same  
2 machine"; right? Yeah. You told me then you knew  
3 the machine that you bought, at least in your  
4 opinion, was the same machine that Torch had;  
5 correct?

6 A From what I knew, it was the same brand --

7 MR. FINNERAN: Hold on.

8 A -- and the same --

9 MR. FINNERAN: Hold on. Hold on.

10 THE WITNESS: I'm sorry.

11 MR. FINNERAN: Sorry. Objection.

12 Misstates the testimony.

13 You may answer the question.

14 A Yeah. I -- I think it says what it says.  
15 I knew it was the same machine that had been being  
16 sold to -- I think that's what it says above. We  
17 were talking about Torch's machines, the same  
18 brand. And that's -- that's all I knew at that  
19 point. It was the same brand. I know there's,  
20 apparently, different versions, but it was  
21 definitely the same brand.

22 Q (By Mr. Craig) Okay. Well, I'm just --  
23 you've told me that at least -- in 20- -- I'm  
24 sorry. In -- October 19, 2023, when we talked  
25 last time, you said, "But I knew they were the

1 same machines." That was your testimony then;  
2 wasn't it?

3 A Yes, what it says. Yes, sir.

4 Q Okay.

5 A Mm-hmm.

6 Q All right. So I don't know if you're  
7 aware, but in this case, are -- are you aware that  
8 expert disclosures were due on November 6th in  
9 this case?

10 A I'm not aware of all of the particular  
11 details of the, you know, schedule, but I -- I  
12 know there are deadlines on several of these  
13 things.

14 Q Okay. So we've established that sometime  
15 close to, say, let's say the end of March 2019,  
16 you sent Stacy Friedman a Banilla device that you  
17 told me on October 19th of this year you believe  
18 were the same machine as Torch had in Missouri;  
19 right?

20 A That is what -- that's what I said. Yes.

21 Q And I assume that your intention, when you  
22 did that, was to have your expert, Stacy Friedman,  
23 who has a Harvard undergraduate degree in  
24 mathematic -- or in computer science what you  
25 intended in your mind was to have him look at that

1 device and do an investigation of that device,  
2 testing and analysis, and then put that into his  
3 expert report; is that fair?

4 A I believe that's fair. Yes.

5 Q Do you know that that did not happen  
6 before November 6th and that, in fact, Stacy  
7 Friedman told me on Wednesday that he never did  
8 any sort of device inspection of that Banilla  
9 device that you sent him back sometime close to  
10 the end of March 3rd?

11 A This is --

12 MR. FINNERAN: Objection. Misstates the  
13 evidence.

14 You may answer, if you know.

15 A This -- I do not know that. This is the  
16 first I've heard of -- of that possibility.

17 Q (By Mr. Craig) Okay. All right. I'm  
18 marking a new devi- -- a new document. It's going  
19 to be identified as Exhibit 23 for identification.  
20 Do you see that document?

21 A Do you -- you're saying document number  
22 20?

23 Q Yeah. It would be document number 20 in  
24 the -- in the line, and it is marked as  
25 Exhibit 23.

1           A   Yes.   I have that.

2           Q   Okay.   And at the top, we see an email  
3   from yourself, sent Monday, 6/24/2019, to Dave  
4   Smith at prosecutors.mo.gov.   Do you see that?

5           A   I see that.

6           Q   In this -- well, first of all, who -- can  
7   you remind me again who Dave Smith is, what county  
8   he's a prosecutor in?

9           A   He was and I believe still is the  
10   prosecutor in Crawford County, Missouri, the  
11   county that I reside in.

12          Q   If you look -- well, in your opening, you  
13   say, "Hello, David.   I hope all is well with you.  
14   Last week I became aware of the attached letter  
15   from 2017.   I thought you might find this  
16   interesting and perhaps helpful as well.   The  
17   e-raffle machines mentioned in this letter are  
18   just one more, quote, gimmick, end quote, that  
19   out-of-state companies have tried to use to  
20   distribute black market gaming in Missouri."   And  
21   then you go on to explain some other things about  
22   this letter that you attached.

23               And then if we continue down, this is the  
24   part I wanted to ask you about.   You say,  
25   "Notably, this letter has shown me yet another

1 path to help fight the black market gaming  
2 machines of Torch Electronics here in Crawford  
3 County and possibly to help you and other  
4 prosecutors here in Missouri. My attorney, Elkin  
5 Kistner, is working with me to potentially file a  
6 tortious interference case against Torch  
7 Electronics in locations where I have reasonable  
8 business expectancies and/or where a contract that  
9 has been infringed upon due to the placement of  
10 Torch Electronic machines in my customer locations  
11 across Mid-Missouri." Did I read that correctly  
12 so far?

13 A I believe you did.

14 Q Okay. And then you continue, "Our feeling  
15 is this suit could be expanded to include others,  
16 perhaps, even the Missouri Lottery, and that,  
17 through discovery, we can determine the machine's  
18 legality be evaluated by the gaming commission."  
19 Did I read that correctly?

20 A No. You misspoke. The word "determine"  
21 was -- actually says "demand."

22 Q Oh. Okay. Good correction. So that  
23 sentence should read, "And that through discovery,  
24 we can demand the machines legality be evaluated  
25 by the gaming commission." Did I read that

1 sentence correctly?

2 A You did.

3 Q So had you -- I mean, at that point, had  
4 you solicited other people, such as the Missouri  
5 gaming -- the -- sorry -- the Missouri Lottery to  
6 perhaps join a litigation against Torch  
7 Electronics?

8 A I don't think so. I think this was  
9 working off the same theory in perhaps the comment  
10 that Senator Schatz had made to me that maybe the  
11 lottery ought to be the one suing them, instead of  
12 you, because the lottery was losing money to  
13 Torch's activities. That was all playing out  
14 through that special committee House subcommittee  
15 that was put together and having meetings talking  
16 about the impact of Torch at that time.

17 Q And you go on to say, "To speed that up  
18 even more, this letter has given me the idea to  
19 obtain a machine exactly like those Torch is  
20 placing in my customer locations, then work with a  
21 licensed bingo location to submit that machine to  
22 the gaming commission for a definitive  
23 determination of its legality much quicker yet."  
24 Did I read that correctly?

25 A You did.

1           Q   Is this when you were first hatching the  
2           plan to work with Nate -- Nathan Howard to involve  
3           Nathan Howard in this process of trying to get the  
4           Missouri Gaming Commission to come to your house  
5           and review a independently sourced TNT Banilla no  
6           chance game?

7           A   This was June 24th, 2019.   And a week  
8           later, I believe, is when the machine arrived that  
9           Nathan -- I think Nathan Howard was already doing  
10          what I described there.   I just didn't want to  
11          name Nathan Howard but wanted to make my local  
12          prosecutor aware of what was happening.   And so  
13          I -- I don't think it's a fair characteration --  
14          characterization to say was this when I thought of  
15          it.   I, apparently, already thought of it and  
16          already was -- had worked -- maybe ordered to buy  
17          the machine and get it here for the gaming  
18          commission to test the machine to see if it could,  
19          in fact, be put into a bingo facility.   Does that  
20          make sense?

21          Q   It does.   But you would agree, when we  
22          talked about how that July meeting with the  
23          Missouri Gaming Commission came about in October,  
24          on October 19th, the last time we spoke, the story  
25          that I heard is slightly different.



1           What I heard was that you said you had a  
2           customer, Nathan Howard, who came to you and said,  
3           "I'm -- I -- I would like to maybe place these  
4           devices in my VFW Hall. Would you, TNT, please  
5           supply them?" And your response was is "Hold up.  
6           I'm not sure that I think they're legal, but I'll  
7           tell you what. Let's get the gaming commission to  
8           maybe come look at this device that I will buy,  
9           and, hopefully, they will approve it." Do you  
10          remember telling me that?

11          A   Not that. Not at all. I didn't  
12          characterize it that way or describe it that way,  
13          I don't think.

14          Q   Well -- all right. Let's go to Page 144  
15          of Exhibit 22 which is a copy of your prior  
16          deposition testimony.

17          A   Okay.

18          Q   All right. If you look at Line 2, I  
19          asked, "Does TNT own any no chance devices?" Your  
20          response, "I'm -- I don't know that. Are you  
21          talking about Torch devices? Slot machines like  
22          Torch has?" My question --

23          A   Aaron, hold on. I -- I'm not on the --

24               MR. FINNERAN: Hold on. Yeah. That's not  
25          on 144, I don't think.

1 THE WITNESS: No.

2 MR. FINNERAN: Aaron, what page did you  
3 say?

4 MR. CRAIG: Sorry. 143, if I misspoke.

5 MR. FINNERAN: Okay.

6 A Okay. I'm on 143.

7 Q (By Mr. Craig) Okay. So 143, in  
8 Exhibit 22, which is your prior deposition  
9 testimony, on October 19th, 2023. Starting at  
10 Line 2, you -- I asked you, "Does TNT own any no  
11 chance devices?" Your response was, "I'm -- I  
12 don't know what -- are you talking about Torch  
13 devices, like slot machine, like Torch's --" I'm  
14 sorry. Sheez. I'm going to start this all over.

15 So if we look at Exhibit 22, which is a  
16 copy of your transcript from October 19th, 2023 --

17 A Yes.

18 Q -- starting on Page 143 at Line 2, I asked  
19 you, "Does TNT own any no chance devices?" Your  
20 response was, "I'm -- I don't know what -- are you  
21 talking about Torch devices, slot machines, like  
22 Torch has?" My question, "I'm talking devices  
23 similar maybe to what Torch has." Your response,  
24 "Absolutely not." My question, "You don't -- you  
25 don't own any games manufactured by Manilla [sic]

1       that would be classified as no chance devices?"  
2       Your response, "Oh, I'm glad you asked that way.  
3       We purchased -- yes. Well, sort of. In the  
4       spring of 2019, we had a VFW Commander, Nathan  
5       Howard, Saint James, Missouri, who had become  
6       aware of the Torch devices in a gas station about  
7       a mile from his VFW post.

8               'And subsequent to him becoming aware of  
9       those, he asked us to supply those machines to his  
10      VFW because we had a jukebox and pool table or  
11      darts or whatever we had in there at the time. He  
12      knew that that was our field of expertise. I told  
13      him that we did not have those machines.

14             'And by that point, I had become aware of  
15      what Torch machines were from other locations  
16      where the Torch machines had been placed. And I  
17      was also aware that the VFW had, in Saint James,  
18      Missouri, a bingo license, and I knew that the  
19      bingo license made him subject to the Missouri  
20      Gaming Commission.

21             'And so when my staff told me -- and by  
22      staff, I mean, Donna Havey told me -- that Nathan  
23      Howard, the commander, was asking for those  
24      machines, I instructed her to tell him that he  
25      needed to check with the Missouri Gaming

1 Association -- Missouri Gaming Commission --  
2 Missouri Gaming Commission to find out if he could  
3 have those machines with his bingo license.

4 'And I went so far -- that continued --  
5 that process took a week or two to get the  
6 information back and forth. And I -- we told him  
7 that if -- if they approve it, then we would buy  
8 machines. And, ultimately, I offered to buy a  
9 machine for them to approve -- to approve." Did I  
10 read everything to that point correctly?

11 A I think you did. Yeah.

12 Q All right. "Now, I originally said that  
13 when I first heard how this meeting came about, it  
14 was my understanding, based on what you told me,  
15 that this came about because Nathan Howard of the  
16 VFW had informed Donna Havey that he was  
17 interested in having TNT supply the games for his  
18 VFW." And that does appear to check out based on  
19 what we just read from your testimony on  
20 October 19th; correct?

21 A Mm-hmm. Yeah.

22 Q Is that a "yes"?

23 A Yeah.

24 Q Okay. And would you disagree with me when  
25 I say that we've looked at some documents earlier

1       today that far pre-date the -- what you say, "The  
2       process took a week or two to get the information  
3       back and forth." We looked at documents earlier  
4       where Nathan Howard was saying, in January of  
5       2019, that he believed the Torch devices were so  
6       illegal that he was filing complaints with the  
7       Missouri Gaming Commission about this location,  
8       this gas station, up the road; right?

9       A   Yes.

10       Q   Okay. So am I to believe that Nathan  
11       Howard, sometime after that, then came to you and  
12       said, "Hey, I would like to see if you could  
13       supply me these devices." And you, thereafter  
14       said, "You know what? I will go so far as to buy  
15       a machine for the purpose of getting the Missouri  
16       Gaming Commission to approve it. And if they  
17       approve it, I will sell them to you." Do you want  
18       me to believe that?

19       A   You -- you shouldn't believe that. I --  
20       I -- I -- it's not true. I didn't sell --

21       Q   Oh, I agree.

22       A   I don't sell machines to people, Aaron,  
23       first off. And -- and, secondly, there was about  
24       six months in between there, almost seven months.  
25       And the man was frustrated in January, if -- if --

1       okay. I'm not sure -- are you wanting me to  
2       answer or --

3           Q   Yeah. No. I'm listening. Sorry. I had  
4       to --

5           A   Okay.

6           Q   -- crack my back.

7           A   Well, I'm not sure what the question is  
8       now that I'm trying to answer.

9           Q   I think you've actually already answered  
10      my question. So --

11          A   Well, good. Then -- then we're good.

12          Q   Would you disagree today, as you sit here,  
13      with your statement on October 19th, that,  
14      "Ultimately, I offered to buy a machine --" we're  
15      talking about the Banilla device that you say you  
16      believed was the same as the Torch device -- "for  
17      them," meaning the Missouri Gaming Commission, "to  
18      approve"? Would you agree that that was actually  
19      your intention in setting this meeting up with the  
20      Missouri Gaming Commission?

21          A   I'm not sure what your question is.  
22      You're -- you're asking what it -- can you say it  
23      again because I don't understand what you're  
24      asking.

25          Q   Yeah. I mean, we just read -- we just

1 read another email where you said that you had an  
2 epiphany that you could set up a situation where  
3 Nathan Howard, via the VFW, essentially, would  
4 force the Missouri Gaming Commission to make a  
5 determination that Torch's devices were illegal.

6 But when you told me what the purpose for  
7 that meeting was on October 19th, you said, quote,  
8 "And, ultimately, I offered to buy a machine for  
9 them to approve"; didn't you?

10 A That is what I said, and that is what we  
11 did. Had they --

12 Q You wanted them to not approve the games.  
13 That's --

14 A I wanted clari- -- I wanted clarifica- --  
15 I'm sorry. I don't want to speak over you. I  
16 wanted clarification. If the Missouri Gaming  
17 Commission was going to approve the machines, that  
18 we would have clarification, and that's what  
19 Mr. Howard wanted. By that time, the machines had  
20 not left Phelps County, the gas station up the  
21 road. And he's, like, "I've got to do something,  
22 and I would like to go ahead and try the  
23 machines." And we said, "Well, we don't believe  
24 they're legal." I think that's what I said. I  
25 think that's -- that's how I've always said it.

1 But if the Missouri Gaming Commission approves it  
2 for your bingo facility, then I'll buy machines  
3 and put 'em in there. And so both can be true.  
4 Both can be true that we were trying to serve our  
5 customer, that he was concerned they were illegal  
6 and believed they were illegal but also by six or  
7 seven months later felt I need to do something for  
8 my business because I can't compete without them.  
9 So all of those things in context can be true,  
10 sir.

11 Q Okay. So you want me to believe that in  
12 those months, despite Nathan Howard being the guy  
13 who you said you were trying to learn from to  
14 watch complaints with the Missouri Gaming  
15 Commission about how illegal these Torch devices  
16 were, it's your testimony that in those months  
17 that preceded, Nathan Howard had a change of heart  
18 to the extent that he said, "Despite me believing  
19 these games are illegal, to the extent I wanted to  
20 lodge all kinds of complaints about them to the  
21 Missouri Gaming Commission, I would really like  
22 you to buy these games so that I can put these  
23 illegal games in my VFW?"

24 MR. FINNERAN: Objection. Calls for  
25 speculation as to Mr. Howard's mindset.



1           You can answer what you know, Jim.

2           A   Well, that's exactly what I was thinking.  
3   But my recollection is, yes, and I'm sorry you  
4   don't believe it, if you don't. But part of what  
5   I can say is we don't have that customer anymore,  
6   and he has sweepstakes machines in there now. So  
7   it adds up.

8           Q   Okay. Well -- all right. Let's look at  
9   what's been marked as document Exhibit 21. I'm  
10   sorry. Exhibit 24 for identification. Let me  
11   know when you see that. This would be document 21  
12   in your stack marked for identification as  
13   Exhibit 24.

14          A   I see it.

15          Q   Okay. So this is an email at the top from  
16   Daniel Kleinsorge to yourself 7/21/2019; correct?

17          A   Yes.

18          Q   Okay. And who's Dan again?

19          A   Dan is Senator -- was Senator Schatz's  
20   administrative assistant.

21          Q   Okay. And right below that, there is  
22   another -- I'm sorry. The top -- I may have  
23   misspoke. But this -- the top email is an email  
24   from you to Dan; right?

25          A   Yes.

1           Q   Okay. And then on the bottom email below  
2           that, you got an email from Daniel on the same  
3           day, and he gave you an address for a VFW machine  
4           on the gray machines -- I'm sorry. I just --  
5           well, is there any information -- I -- I can't  
6           tell. That's not his signature block; right? So  
7           is -- did he send you the information about  
8           Dave M. Gorth- -- Gor- -- Gorthaus [sic]?

9           A   David M. Grothaus was the director of the  
10          Missouri Gaming Commission at that time in July of  
11          2019. For whatever reason, it looks to me --  
12          you're asking me what I see. Daniel Kleinsorge  
13          sent me the address for the VFW machine on gray  
14          games, gray machines. And he included David  
15          Grothaus the director's contact information along  
16          with the address for their office in Jefferson  
17          City.

18          Q   Okay. And then so he was giving you the  
19          Missouri Gaming Commission's contact so that you  
20          could touch base or Nathan Howard could touch base  
21          about this idea to have whatever game that you  
22          purchased reviewed by the Missouri Gaming  
23          Commission?

24          A   I don't really know, to tell you the  
25          truth, what -- what -- this is a little odd,

1       because by July 1st -- I think the machine arrived  
2       on July 1st of 2019, at my office, not my home, as  
3       you said earlier, but at my office --

4           Q   Gotcha.

5           A   -- where I am today. So I -- I don't  
6       really know why that was sent to me. It could've  
7       been some misunderstanding or something. Maybe  
8       Senator Schatz asked him to find out, you know,  
9       where the machine was or what was happening. I --  
10      I don't know. I don't remember. I don't know  
11      what this is about.

12          Q   I think the meeting with the MGC was the  
13      next day on the 2nd of July 2019; is that correct?

14          A   I don't remember. But if -- if you say  
15      so, you -- you may have something that shows that.  
16      Off the top of my head, I -- I know it was around  
17      the first of the month when the game got here  
18      and -- and the inspection happened. So I -- I  
19      mean, I'm just -- I really don't know what is  
20      happening in this particular email, other than me  
21      answering and telling Daniel that I'm working with  
22      Nathan Howard and the VFW in Saint James, but I --  
23      I don't know. I don't know what the rest of it's  
24      about. Sorry. But --

25          Q   Oh, no. That's fine. All right. Now,

1 going to another document that's been marked as  
2 Deposition Exhibit 25 for identification. Let me  
3 know when you see it.

4 A I have it.

5 Q And this is an email from you to Donna  
6 Havey that is dated July 1st, 2019, with the  
7 subject of "letter from VFW needed." Do you see  
8 that?

9 A I do.

10 Q Okay. And your email from you to Donna  
11 starts with "Nathan." "Nathan, please call David  
12 Grothaus, Director of Missouri Gaming Commission,  
13 or speak to anyone else you feel comfortable with  
14 at GC, the letter below or edits as you feel best.  
15 Ask that GC expedite getting the device inspected  
16 for their determination as to its legality. We  
17 will assist in every way." Did I read that  
18 correctly?

19 A You do.

20 Q Okay. So, I mean, would it be fair to say  
21 that you -- you wrote the initial email that you  
22 proposed Nathan Howard send to the Missouri Gaming  
23 Commission about why he --

24 A Yeah. I --

25 Q I'm sorry. -- about why he needed this

1 inspection?

2 A Yeah. I think that's fair to say.

3 Q And then I assume that Nathan Howard did  
4 use this email that you drafted or some close  
5 approximation thereof to send to the Missouri  
6 Gaming Commission; right?

7 A I think that's fair to assume. I -- I  
8 don't remember or know if I know exactly what he  
9 sent to them, but he probably used this outline.

10 Q And you wrote in that letter, "Our local  
11 amusement machine vendor," which would be you,  
12 TNT; right?

13 A Yes.

14 Q " -- has purchased video gaming machines  
15 exactly like those that have been installed in  
16 many -- many of the nearby bars, convenience  
17 stores, and truck stops. We have an agreement to  
18 place these machines in our post." Did I read  
19 that correctly?

20 A You did.

21 Q At that time is it true that you had an  
22 agreement with Nathan Howard to place these  
23 machines at Nathan Howard's VFW post?

24 A Yeah. I think that's accurate.

25 Q And then, skipping down, you proposed that

1 the machines could be inspected at the location of  
2 the vendor, TNT Amusements, doing business as  
3 Play-Mor Coin-Op, in West Sullivan, Missouri. And  
4 that is your office; correct?

5 A That is correct.

6 Q Okay. All right. I marked another  
7 document as Exhibit 26. Do you see that?

8 A I do.

9 Q It starts at the top. To identify the  
10 document, there's an email from yourself, sent  
11 Monday, July 6th, 2019, to Tom Cobb. "Subject:  
12 Forward: Pre-reveal gambling machines, a/k/a no  
13 contest, et cetera, declared illegal in Missouri  
14 7/3/2019." Do you see that?

15 A I do.

16 Q Okay. And if you look down just below  
17 that, there's a -- there's an email from you to  
18 Daniel and Dave Schatz and Tom Cobb cc'd where you  
19 say, "Thanks, Dan. Dan [sic] is aware of this.  
20 We spoke Friday. He said he'd get with you and  
21 public safety to see if we can get the division of  
22 crime and drug to begin some enforcement in  
23 Franklin, Crawford, and Phelps County where these  
24 GC agents found more than two dozen of the exact  
25 machines last week while conducting this analysis

1 and investigation." Do you see that? And did I  
2 read it correctly?

3 A I think you did. I see it.

4 Q Okay. And here, I think, you're talking  
5 about the Missouri Gaming Commission's letter  
6 that -- I -- I don't remember if we talked about  
7 it, but I've seen it before where they -- Ed  
8 Grewach, the former general counsel for the  
9 Missouri Gaming Commission, said that the  
10 independently sourced Banilla no chance device  
11 that TNT owned and was inspected, in his opinion,  
12 was an illegal gambling device; right?

13 A Yes.

14 Q Okay. And then it looks by this email,  
15 you were using that to further your previous  
16 stated goal of working with at least Senator  
17 Schatz to get various law enforcement agencies in  
18 Franklin, Crawford, and Phelps County to go after  
19 Torch devices; correct?

20 A I believe so.

21 Q Okay. All right. I've marked a new  
22 document as Exhibit 27. It's document 24 in your  
23 file. Let me know when you see it.

24 A I see it.

25 Q The top email, just for identification, to

1 Exhibit 27 is an email from yourself to Dave  
2 Schatz with cc'd Tom Cobb and a blind copy to  
3 Kathi Harness and Scott Swain as well as Casey  
4 Wasser; correct?

5 A Yes.

6 Q And this is dated 7/19/2019; correct?

7 A Yes.

8 Q In the email directly below that -- well,  
9 hang on. I'm violating my own rule just starting  
10 in reverse chronological order. So let's go to  
11 the bottom of the document on Page 3.

12 A Page 3?

13 Q Yep. Do you see that last email?

14 A Yes.

15 Q And I think you have to go back just to  
16 the bottom of Page 2 to see that that email was  
17 from you on June 17th, 2019, at 4:10 PM, and it  
18 was sent to a Michael Winter --

19 A I see that. Yes.

20 Q -- with a cc to -- with a cc to Tom Cobb;  
21 correct?

22 A Correct.

23 Q I think brent@brenthempill.com is also  
24 copied or a recipient; correct?

25 A Yes.



1 Q Who's Brent?

2 A He's a lobbyist for one of the casinos or  
3 one of the casino ownership groups. I'm not sure  
4 which one. I don't remember. Mike Winter is a  
5 lobbyist that represents the Missouri Gaming  
6 Association, I believe.

7 Q And that was going to be my next question  
8 is who was Michael Winter. And then your response  
9 there is Michael Winter was one of the Missouri  
10 Gaming Association's lobbyists?

11 A I think he's the on- -- I think he's the  
12 only lob- -- the lobbyist for the Missouri Gaming  
13 Association.

14 Q Okay. And you said, "Mike and Brent,  
15 thank you for meeting with Tom and I last week in  
16 Senator Schatz' office." Did I read that  
17 correctly?

18 A You did.

19 Q Okay. So fair to say that the week prior,  
20 yourself and Senator Schatz had a meeting with  
21 Michael Winter of the -- associated with the  
22 Missouri Gaming Association and this Brent  
23 Hemphill; correct?

24 A That -- that's what that says. Yes.

25 Q Okay. And what -- what was discussed

1 during that meeting?

2 A Oh, I -- hopefully, this letter will tell  
3 us, if you want to go that route. I -- I'm not  
4 going to remember exactly, but I -- I know we were  
5 trying to find mutual ground to try to not have  
6 push back from them. It's just like all the  
7 others I've mentioned. If you're -- you're going  
8 to try to do something to move forward, you -- you  
9 don't want to try to draw fire from people that  
10 can prevent legislation from being passed.  
11 They're lobbyists. So --

12 Q At the bottom, kind of over towards the  
13 right-hand side, about three lines up, you say,  
14 "We hope you agree." Do you see that?

15 A At the bottom --

16 Q Yes.

17 A -- of page --

18 Q Well, I'll tell you what. It's Page 3.  
19 It would be, from your name, go up one, two,  
20 three, four, five, six, seven where it says, "We  
21 feel sharing this idea."

22 A Yeah. I see that now.

23 Q Okay. So you say, "We feel sharing this  
24 idea now will further indicate our sincere desire  
25 to find common ground with you and the casinos you

1 represent. To accomplish the outcome, we both  
2 need to secure a better future for our industries  
3 in this state. We hope you agree and that this  
4 concept can be incorporated into our path to  
5 successfully eradicating the black market illegal  
6 gaming that has plagued Missouri for decades while  
7 simultaneously staving off the aggressive VLT  
8 business model being shoved upon us by out of  
9 state gaming industry competitors." Do you see  
10 that?

11 A I do.

12 Q Would it be fair to say that what you were  
13 attempting to do here was potentially join forces  
14 with the Missouri Gaming Association to further  
15 both your goals and other members of your goals as  
16 well as the Missouri Gaming Association's goals?

17 A I don't think it's fair to characterize it  
18 quite that way. I -- I think it says what it  
19 says, and I was looking for a compromise with  
20 them. We were looking for a compromise with them,  
21 not -- not to join forces, so to speak. They have  
22 their own agenda and -- and we were still trying  
23 to find a way to add value and bring value to  
24 Diamond Games. So I don't think that's a joining  
25 of forces. I think we have mutual interests, and

1       that's, you know, what it says.

2           Q   Yeah.  I mean, you wanted the Missouri  
3   Gaming Association at least on your side, right,  
4   so that they wouldn't be an impediment to whatever  
5   goals that you or your organization might have;  
6   correct?

7           A   I didn't want them to work against us.

8           Q   Right.  You'd rather work with --

9           A   I'm sorry.

10          Q   You'd rather work with -- yeah.  You'd  
11   rather work with them than against them; correct?

12          A   I was hoping to get their blessing.  I  
13   don't know that I could say they were going to  
14   work with me ever.  And -- and - and I don't mean  
15   to be -- I'm not trying to be argumentative or  
16   split hairs, but it's not like there was a  
17   partnership.  It was -- you know, if -- if we can  
18   find common ground, that's what we were look- --  
19   that's what I was trying to establish.

20          Q   Well, one piece of common ground that both  
21   you and the Missouri Gaming Association have in --  
22   in common would be an extreme dislike of Torch  
23   Electronics; fair?

24          A   From my side, yes.  I can't speak for them  
25   because --

1           Q   So you're not aware -- you've never heard  
2           in all of your lobbying efforts, the discussions  
3           with Mike Winters, the Missouri gaming  
4           association's lobbyist, or your own lobbyist, that  
5           the casinos that formed the Missouri Gaming  
6           Association disliked Torch and other no chance  
7           preview-type games in the state of Missouri?

8           MR. FINNERAN:  Objection.  Calls for  
9           hearsay and speculation.

10          But you can answer, if you know.

11          A   I think I've heard something to that  
12          effect --

13          Q   (By Mr. Craig)  Yeah.

14          A   -- along the way.

15          Q   I assumed you had.  I've marked another  
16          exhibit, called Exhibit 28, for identification  
17          which is an email from yourself to a Ben Murphy at  
18          americafirstmo.com, dated July 20th, 2019.  Do you  
19          see that?

20          A   I do.

21          Q   And it says, "Missouri Amusement  
22          Operators, MPTs, and casinos."  Do you see that?

23          A   I do.

24          Q   You say, "My friend, Dave Smith, Crawford  
25          County Prosecutor, told me that about a year and a

1 half ago, he wanted to take some action on some  
2 illegal gambling machines. So he called the then  
3 AG's office to ask for direction and to know what  
4 the AG would do to support his actions were his  
5 case -- I think it should say -- to go to  
6 appellate court. At the time, the people in the  
7 AG's office told him they were not interested in  
8 gambling. All paraphrased, but boiled down was a  
9 stand down result." Did I read that correctly?

10 A You did.

11 Q Is that consistent with your current  
12 recollection of how that conversation went between  
13 yourself and David Smith?

14 A I think that's a -- that's a fair  
15 representation of my memory of what Dave Smith  
16 told me.

17 Q Do you know who Ben Murphy is?

18 A Ben Murphy is -- yeah. I -- he -- he had  
19 a blog or was part of a blog or -- or -- I don't  
20 want to call it a radio show, but similar to that.  
21 I'm trying to remember his -- he -- he called this  
22 thing "America First." And he's an old family  
23 friend. He -- he -- he -- well, I shouldn't say  
24 old family friend. His -- I -- I've known him for  
25 probably 20 years. And so, I guess, yeah, you

1       could say he's an old family friend.

2           Q   There's some confusion.  And I -- that's  
3       one of the things I wanted to ask.  If you go to  
4       the bottom, the last email that I can see on this  
5       document is an email from you, dated July 18th,  
6       2019, at 8:58 PM.  Do you see that?

7           A   July -- say that again.

8           Q   Yeah.  Go to the bottom of Page 1.  It's  
9       the very last thing that's written there.

10          A   Okay.  Page 1.  I see that.

11          Q   And then if you go down is the message,  
12       and you just say, "Whether they are pull tab  
13       machines operated through the lottery or  
14       standalone VLTs, the industry has concerns about  
15       the expansion of these types of machines, and  
16       there's nothing else written there."

17               And then it looks like in response to  
18       that, then Murphy sends you an email that says,  
19       "Jim, this last part of casino response is  
20       telling."  Do you have any idea what he's  
21       responding to?  Because I couldn't tell.

22          A   I don't.  He must've read that somewhere  
23       and was asking me what it -- you know, about it,  
24       apparently.  That's only a -- that's what it seems  
25       to be.

1           Q   Okay. That's fine. Okay. I've marked  
2           what's been marked for identification as  
3           Exhibit 29, which at the top, has an email to Dave  
4           Smith and a few other people from yourself dated  
5           7/23/2019. Do you see that?

6           A   I do.

7           Q   If you go to -- if you go to the bottom of  
8           Page 1 --

9           A   Okay.

10          Q   -- you send an email to Randy Counts --

11          A   Yes.

12          Q   -- and a number of other people to include  
13          Dave Schatz on July 23rd, 2019; correct?

14          A   Yes.

15          Q   You say, "Chief Counts. Plea- -- please  
16          find the attached letter dated July 3rd, 2019.  
17          The letter is from lead counsel -- lead legal  
18          counsel of the Missouri Gaming Commission." And  
19          this was regarding the -- the Nathan Howard  
20          letter; right?

21          A   Yes.

22          Q   Okay. Who's Chief Counts?

23          A   He was the chief of police for the city of  
24          Sullivan, Missouri.

25          Q   Okay. And I take it you wanted to file



1       this as your formal complaint against what you  
2       believed was illegal activity?

3           A   I think when I read it, it -- it -- I was  
4       letting Chief Counts know of what had unfolded  
5       recently with -- with the Missouri Gaming  
6       Commission's determination on the gambling  
7       machines, on the slot machines that are in  
8       Sullivan. So I -- I -- I don't -- I don't see it  
9       saying that it's a complaint necessarily. He  
10      already knew they were there.

11          Q   I'm not -- I'm not trying to trip you up,  
12      and I didn't ask you to read the whole thing. So  
13      if you'd go to Page 2 and you look down one, two,  
14      three paragraphs down, you say, "I desire this  
15      letter to be considered my formal complaint  
16      against this illegal activity and for multiple  
17      reasons"; correct?

18          A   Okay. I see that now. As -- as you said,  
19      I had not read it. It was on the next page. So  
20      it says what it says and --

21          Q   I mean --

22          A   -- and it also -- it brought the Chief  
23      Counts up to date on what had transpired. So  
24      it -- it did all -- both of the above.

25          Q   Yeah. And you -- you don't disagree that

1 at least part of the reason why you've sent this  
2 email to Chief Counts was to make a formal  
3 complaint; correct?

4 A He did -- that's what it says. So, yes, I  
5 was doing that as well.

6 Q And -- and -- I'm sorry. Where, again,  
7 did you say Chiefs Count -- Chief Counts was  
8 located?

9 A The city of Sullivan in Missouri, which is  
10 adjacent to the town of West Sullivan where I  
11 live.

12 Q And then do you know if -- Chief Counts,  
13 did he ever do anything in response to your email  
14 here?

15 A I don't think so. I -- I don't know if he  
16 did or didn't.

17 Q If you look at the top email again, we've  
18 got an email from you to David Smith and a few  
19 others. And David Smith is a prosecutor where?

20 A Crawford County, Missouri, the county that  
21 I reside in.

22 Q And you say, "David, please let me know if  
23 we could work with you to repeat this action in  
24 Crawford County at any of the many locations in  
25 our county that have these machines too." What

1 did you mean by "repeat this action in Crawford  
2 County"?

3 A Well, I guess I would have to open up  
4 those links and see what those actions were. But  
5 I think in simplest form, I was trying to get  
6 someone to enforce the law and help get rid of  
7 these slot machines, Adam -- or Aaron. That's  
8 consistent with everything that I've been trying  
9 to figure out how to do for quite some time.

10 Q All right. I've marked another document  
11 as Exhibit 30 for identification. For  
12 identification, at the top, this is a document  
13 from Todd A. Nelson to yourself dated July 23rd,  
14 2019; correct?

15 A Yes.

16 Q Okay. And who's Todd Nelson?

17 A Todd Nelson was an agent or investigator  
18 for the Missouri Gaming Commission. He is not  
19 there today, but that's who he was then.

20 Q And you sent your prior email that we just  
21 looked at to Chief Counts. You forwarded that on  
22 to Todd Nelson. I guess Todd Nelson was a  
23 recipient to that email correspondence; correct?  
24 I'll -- I'll start over because I think I -- I  
25 realized midstream what had happened here. So

1       what we see is the lower email after the first  
2       email is the same email we just talked about on  
3       Exhibit 29 that you sent to Chief Counts; right?

4           A   Yes.  It appears to be.  Yes.

5           Q   And Todd Nelson was one of the recipients  
6       as a carbon copy; correct?

7           A   I think so.  Yeah.  Yes.

8           Q   And Todd Nelson then responds to you and  
9       everybody else on your email, "Mr. Turntine, as  
10      previously discussed, MGC's jurisdiction is  
11      limited by statute to our licensee.  However,  
12      should local or state law enforcement request  
13      assistance, I have been authorized to provide  
14      technical support related to the investigation of  
15      illegal gambling machines."  And then he -- he  
16      offered, I think, general counsel for the Missouri  
17      Gaming Commission to -- his contact information;  
18      right?

19          A   Yes.

20          Q   And, now, prior to this, had you spoken  
21      with Todd Nelson?

22          A   I had met Todd Nel- -- Todd Nelson when he  
23      came to my office on July 2nd, I think you said it  
24      was, when he inspected the machine here in my  
25      office.

1 Q And had you asked Todd Nelson, prior to  
2 this email, whether the MGC would be willing to  
3 help TNT get law enforcement or other state  
4 prosecute -- prosecutors to start prosecuting  
5 Torch?

6 A I don't -- I don't remember if I did or  
7 didn't. I -- I don't know.

8 Q Okay. So you don't know if this was,  
9 basically, volunteered assistance on behalf of  
10 Todd Nelson and the Missouri Gaming Commission or  
11 if it was something that either you or Dave Schatz  
12 or you and Dave Schatz had asked the Missouri  
13 Gaming Commission to jump in and help with; fair?

14 A I'm -- I'm -- yeah. I'm sorry. I don't  
15 remember exactly. There was a lot going on  
16 through that time, and -- and I don't remember  
17 exactly how that played out.

18 MR. FINNERAN: Aaron, I don't want to  
19 interrupt the line of questioning, but if you want  
20 to either take a break in a second or we can go  
21 off the record and just talk about what the plan's  
22 going to be whenever you get to --

23 MR. CRAIG: Yeah.

24 MR. FINNERAN: -- the next topic.

25 MR. CRAIG: Yeah. I just marked another

1 exhibit. It's a one-pager. It's really short.  
2 It shouldn't take long. And then we'll take a  
3 break.

4 MR. FINNERAN: Okay. Sounds good. Go  
5 ahead.

6 Q (By Mr. Craig) All right. So I just put  
7 another exhibit in front of you. It's been marked  
8 Exhibit 31 for identification. Do you see that?

9 A I see it.

10 Q The top line of the email is Ben Murphy  
11 sent this email to you, Jim Turntine, on  
12 Wednesday, July 31st. Do you see that top email?

13 A I -- I do.

14 Q And this is 2019; correct?

15 A It is.

16 Q He says, "I should have cc'd you." And  
17 the message that was being forwarded was a message  
18 from Ben to an slewis@sccmo.org; correct?

19 A I see that. Yes.

20 Q Do you know who slewis@sccmo.org is?

21 A I do not know exactly who that is, or if I  
22 did, I don't remember. Somebody that Ben knows.

23 Q One thing, I guess, that he says there,  
24 towards the end of his message, is "Our AG" -- so  
25 I think he means our attorney general -- "has said

1 he can't act unilaterally on this because his  
2 prosecutors haven't called for action. BS, ask  
3 Crawford County prosecutor." Did I read that  
4 right?

5 A You did.

6 Q Okay. Was -- was he expressing  
7 frustration, as far as you can understand, with a  
8 lack of what -- well, let me back up. When you  
9 read this, what did you think he meant by that?

10 A I've got to tell you, it -- I -- I  
11 don't -- I don't know. Ben -- Ben is a -- a  
12 really nice guy and a -- and a -- and a good old  
13 friend, and he knows a lot of people in -- in the  
14 St. Louis political environment -- or claims that  
15 he does and -- and I guess he does. But I -- I  
16 don't know exactly what he's saying here, except  
17 for he -- he sees some of the same nonsense in  
18 what was going on as -- as I do. And he -- it  
19 looks like he is somewhat frustrated by it and  
20 telling whoever slewis is that.

21 Q Would it be fair to say that you, at  
22 least, by this time, you know, despite having got  
23 the letter that you wanted from the Missouri  
24 Gaming Commission, were frustrated by the lack of  
25 willingness on behalf of prosecutors in various

1 counties or the attorney general in Missouri to  
2 act on what you believe were illegal Torch no  
3 chance devices?

4 MR. FINNERAN: Aaron, I -- I'm sorry.  
5 I -- you might've broken up, at least on my end.  
6 I couldn't hear your question.

7 MR. CRAIG: Yeah. Madam Reporter, did you  
8 catch that?

9 COURT REPORTER: Yes. Would you like me  
10 to read it?

11 MR. CRAIG: I would. Thank you.

12 FINNERAN: Sorry. Thank you.

13 COURT REPORTER: Question: "Would it be  
14 fair to say that you, at least, by this time, you  
15 know, despite having got the letter that you  
16 wanted from the Missouri Gaming Commission, were  
17 frustrated by the lack of willingness on behalf of  
18 prosecutors in various counties or the attorney  
19 general in Missouri to act on what you believe  
20 were illegal Torch no chance devices?"

21 MR. FINNERAN: Thank you.

22 A So the question was asking me. It's not  
23 about this exhibit, right, Aaron?

24 Q (By Mr. Craig) No.

25 A That's your question?



1 Q Right.

2 A Okay. Yes. Yes. I was and remain  
3 frustrated that the law is not being enforced on  
4 these slot machines. Yes.

5 Q Yeah. And I -- I, obviously, disagree  
6 with you calling Torch devices slot machines, but  
7 I --

8 A I -- I'm --

9 Q -- understand your frustration.

10 A Would -- okay.

11 Q I mean, I -- I hear you. Let's say that.  
12 But, yeah. I disagree with your turn of phrase,  
13 let's say. And with that, let's take a break.

14 THE WITNESS: Are we going to a break-out  
15 room again or --

16 VIDEOGRAPHER: We're going --

17 MR. FINNERAN: Well, I -- I want -- I've  
18 got to talk to Aaron.

19 MR. CRAIG: Are we off the record?

20 VIDEOGRAPHER: Yes. I just read us off  
21 the record at 5:08 PM.

22 MR. CRAIG: I didn't even hear that.

23 Okay. That's fine. Thanks.

24 MR. FINNERAN: I think you might've muted,  
25 Frank. Nobody heard you say it.

1 MR. CRAIG: Okay.

2 (Off the record 5:08 to 5:17.)

3 MR. CRAIG: So based on a discussion with  
4 Mr. Finneran and his client, Mr. Turntine, we have  
5 decided to hold this 30(b)(6) deposition open and  
6 reconvene on a date sometime before the end of  
7 next week at which time we will come back. We  
8 will spend some time not -- not exactly specified  
9 yet, but some time to finish up the 30(b)(6) and  
10 then move into Mr. Turntine's personal deposition  
11 for some follow-up and, hopefully, not be in  
12 depositions all day, but that is the current plan.  
13 And I believe that all parties, to include  
14 Mr. Finneran and Jim Turntine, are agreeable to  
15 said plan. All in favor say "I."

16 MR. FINNERAN: "I." And just so it's  
17 clear for the record, we have agreed that we will  
18 continue the deposition to a later date and that  
19 the parties will work together to determine the  
20 length of the 30(b)(6) and also to determine if  
21 additional testimony is required from Mr. Turntine  
22 personally, that we will also conduct that  
23 testimony at that time. And so there's no actual  
24 agreement as to the number of hours for this  
25 deposition to continue, but the parties will work,

1 as I say, to complete the 30(b)(6) deposition.

2 And that is all I have to say.

3 MR. CRAIG: Sounds good. And with that, I  
4 would wish everyone on this video my sincerest  
5 thank you and a Merry Christmas as well. I'd say  
6 Happy New Year, but we'll be seeing each other  
7 before that. So I hope you have a wonderful,  
8 safe, and joyous Merry Christmas.

9 MR. FINNERAN: Same to you, Aaron.

10 THE WITNESS: Same to you, Aaron.

11 MR. FINNERAN: Thank you all.

12 MR. CRAIG: All right. We'll see ya.

13 COURT REPORTER: Gentlemen, before you  
14 leave --

15 (Mr. Craig left the virtual room.)

16 MR. FINNERAN: Oh, he left but --

17 COURT REPORTER: I'll speak with you then.  
18 Deposition and video order, please.

19 MR. FINNERAN: I'm sorry?

20 COURT REPORTER: I'll need your video and  
21 your transcript, rather, order, please.

22 MR. FINNERAN: Oh, orders. I'm sorry.  
23 I -- I understand. So -- and I believe this is  
24 true for Mr. Craig as well, but you're free to  
25 confirm with him by email. We'd like a rough

1 transcript with exhibits as soon as possible. We  
2 don't need a rush on either the final transcript  
3 or the video.

4 COURT REPORTER: Got it.

5 (Mr. Craig rejoined the virtual room.)

6 MR. FINNERAN: It looks like he -- he  
7 heard you say "don't go," and he's rejoined us.

8 COURT REPORTER: Okay.

9 MR. CRAIG: Sorry. I clicked -- I clicked  
10 the wrong -- I was -- I was really in a hurry to  
11 go enjoy Christmas.

12 MR. FINNERAN: That's okay, Aaron.  
13 They -- they just asked us what we want.

14 And I -- I said that we would like rough  
15 transcripts with exhibits as soon as possible, but  
16 no need to expedite the final or video. And I  
17 assume that's what you're thinking as well.

18 MR. CRAIG: Right. That is exactly right.  
19 I will say the one problem with the exhibits is  
20 I -- I can't -- I don't know that I can give them  
21 in the final format with the stickers on them  
22 until I close and end this session. And if I  
23 close and end this session, I won't be able to  
24 reopen it. So we might have to wait on exhibits  
25 until we reconvene.

1           MR. FINNERAN: And that's -- I have no  
2       objection to that.

3           MR. CRAIG: Okay.

4           (The remote Zoom video-recorded deposition  
5       was suspended on 12/22/23 5:21 PM until 12/29/23.)

6           (Exhibits 4-31 are attached.)

7           (Signature is not waived.)

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CERTIFICATE OF SHORTHAND REPORTER

I, Melody Stephenson, the officer before whom the foregoing deposition was taken, do hereby certify that the foregoing transcript is a true and correct record of the testimony given; that said testimony was taken by me stenographically and thereafter reduced to typewriting under my direction; that reading and signing was requested; and that I am neither counsel for, related to, nor employed by any of the parties to this case and have no interest, financial or otherwise, in its outcome.

  
Melody Stephenson, Certified Court Reporter, BBA,  
FCRR, CRR, CRC, RPR, RSA, MO CCR 406, IA CSR 974

1 Friday, January 5, 2024

2 RICHARD FINNERAN, ESQUIRE  
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6 St. Louis, MO 63102  
7 (314) 259-2000  
8 richard.finneran@bclplaw.com

9 RE: PohlmanUSA Job No. 288924  
10 12/22/23 30(b)(6) Deposition Transcript of James  
11 Dean Turntine, TNT Amusements, Inc., d/b/a  
12 Play-Mor Coin-Op v. Torch Electronics, LLC, et al.  
13 Case No. 4:23-cv-00330-JAR

14 Dear Mr. Finneran:

15 This letter, incorporated as the last page of  
16 Mr. Turntine's 30(b)(6) deposition transcript,  
17 taken on Friday, December 22, 2023, will serve as  
18 notice to you that Mr. Turntine's testimony is now  
19 ready for his reading and signing of same due to  
20 his not waiving his signature at the time of the  
21 deposition.

22 Enclosed, please find a copy of the deposition  
23 transcript, along with the original signature page  
24 and errata sheet. Please have Mr. Turntine read  
25 his deposition transcript at his earliest possible  
convenience, making whatever changes he feels are  
necessary, if any, on the errata sheet, along with  
his reason for making same.

Please have Mr. Turntine sign the original  
signature page and errata sheet before any notary,  
and email the notarized signature page and errata  
sheet to production@pohlmanusa.com for  
distribution within 20 days from today's date or  
the transcript will stand as transcribed, unless  
otherwise agreed to by the parties.

Thank you for your cooperation in this regard.

Sincerely,

Melody Stephenson  
PohlmanUSA Court Reporter

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DEPOSITION CORRECTION SHEET \_\_\_\_ OF \_\_\_\_  
WITNESS NAME: JAMES DEAN TURNTINE - 30(b)(6)  
CASE NAME: TNT AMUSEMENTS, INC., d/b/a PLAY-MOR  
COIN-OP v TORCH ELECTRONICS, LLC, et al.  
CASE NO. 4:23-cv-00330-JAR; DATE TAKEN: 12/22/2023

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WITNESS SIGNATURE PAGE

STATE OF MISSOURI            )  
COUNTY OF \_\_\_\_\_)

WITNESS NAME: JAMES DEAN TURNTINE - 30 (b) (6)  
CASE NAME: TNT AMUSEMENTS, INC., d/b/a PLAY-MOR  
COIN-OP v TORCH ELECTRONICS, LLC, et al.  
CASE NO. 4:23-cv-00330-JAR; DATE TAKEN: 12/22/2023

I, JAMES DEAN TURNTINE, do hereby certify:  
That I have read the foregoing deposition;  
That I have made such changes in form  
and/or substance to the within deposition as might  
be necessary to render the same true and correct;  
That having made such changes thereon, I  
hereby subscribe my name to the deposition.  
I declare under penalty of perjury that  
the foregoing is true and correct.

Executed this \_\_\_\_\_ day of  
\_\_\_\_\_, 2024, at  
\_\_\_\_\_.

\_\_\_\_\_  
Witness/Deponent  
\_\_\_\_\_

<b>A</b>	366:3 371:7	539:24	457:7	535:7
<b>a/k/a</b>	399:11	<b>achieving</b>	463:21,22	<b>adjacent</b>
540:12	518:16	500:23	465:5	552:10
<b>Aaron</b>	<b>able</b>	<b>acquiring</b>	475:24	<b>adjusted</b>
290:14	296:19	497:13	499:12	506:19
294:22	306:13	<b>acraig@g...</b>	551:2,16	<b>administ...</b>
296:10	324:15	290:19	<b>actual</b>	482:25
300:14,14	356:5	<b>acronym</b>	299:16,24	485:15
307:22	370:3	392:25	301:5,7	486:4
310:24	389:14	393:2	305:5	535:20
328:24	394:12	436:14,25	341:16	<b>admit</b>
330:25	403:22	<b>act</b>	560:23	445:16
333:8	405:14	368:9	<b>Adair</b>	<b>admitted</b>
334:12	486:13	461:21	373:11	377:4 447:1
335:5	498:3,5	470:11	389:7,10	<b>ads</b>
347:2	507:9	557:1	<b>Adam</b>	353:3
351:9	562:23	558:2,19	553:7	<b>adversely</b>
352:12	<b>abouts</b>	<b>acting</b>	<b>add</b>	404:18
362:2	325:24	380:3	424:6 426:2	<b>advertise</b>
370:9	<b>absolutely</b>	<b>action</b>	463:20	390:17
379:13	375:25,25	308:17	469:1	<b>advice</b>
380:10	421:14,14	360:15	545:23	511:6
397:8	528:24	362:22	<b>added</b>	<b>advise</b>
407:4	<b>absorbed</b>	364:19	299:19	416:9,14
421:16	364:2	446:8	<b>adding</b>	417:3
425:9	<b>abuse</b>	455:20,22	332:18	<b>advised</b>
432:12	324:20	511:14	<b>additional</b>	374:21
434:2	<b>accepted</b>	548:1	299:15	<b>advisors</b>
439:16	416:4	552:23	300:9	417:7
447:15	481:15	553:1	463:21	<b>af-</b>
449:12	<b>access</b>	557:2	560:21	506:10
462:18	519:18	<b>actions</b>	<b>address</b>	<b>affect</b>
484:19	<b>accident...</b>	548:4 553:4	293:3	328:5
487:11	468:23	<b>activate</b>	342:14	<b>affirmed</b>
488:10	469:20	497:16	358:25	295:3
492:22	<b>accomplish</b>	<b>activities</b>	359:14	<b>afford</b>
504:4	357:11	487:2	389:17	353:5,7
506:7	501:11	525:13	392:13	<b>AG</b>
517:20	505:22	<b>activity</b>	412:9	548:4
527:23	545:1	304:4 306:4	486:21	556:24
528:2	<b>account</b>	328:3	536:3,13	<b>AG's</b>
531:22	347:3	390:25	536:16	548:3,7
553:7	<b>accounting</b>	398:7,8	<b>addressed</b>	<b>agencies</b>
555:18	301:22	401:4	338:24	362:9 366:9
558:4,23	<b>accounts</b>	405:4	359:1	366:16
559:18	456:7	415:19,24	387:23	367:5
561:9,10	475:23	440:6	<b>addressing</b>	478:12
562:12	<b>accurate</b>	451:7	460:21	541:17
<b>ability</b>	484:17	454:23	<b>adds</b>	<b>agency</b>

362:7	431:16	495:25	<b>allowed</b>	360:25
433:6,21	461:15	496:3	323:9	365:17
466:19	464:24	503:20	<b>alternative</b>	390:2
<b>agency's</b>	472:4,6	533:22	395:4	402:22
366:2	474:16	556:5	397:23	405:6
<b>agenda</b>	476:8	<b>aide</b>	444:13	412:3
545:22	479:19,21	342:15	<b>altogether</b>	435:13
<b>agent</b>	480:4,12	431:20	496:23	<b>amount</b>
366:18	480:16	<b>aimed</b>	501:21	313:16
553:17	481:10	393:2 424:3	<b>am-</b>	515:17
<b>agents</b>	484:16	497:5	439:5	<b>amusement</b>
361:6,13	485:8,13	<b>al</b>	<b>AMAO</b>	291:19
540:24	486:19	291:18,20	325:9,10	293:10,12
<b>aggressive</b>	502:25	291:22	<b>ambush</b>	317:8,17
442:14	512:1	292:3,5,12	444:10	318:5,6,15
449:22	515:20	292:15,18	<b>ambushed</b>	318:16
545:7	526:21	292:20	439:5	323:5
<b>Agile</b>	531:21	293:9,13	441:25	325:14
518:15	532:18	294:6,7	445:15	328:13
<b>ago</b>	544:14	565:7	<b>amend</b>	344:16
305:23	545:3	566:4	364:25,25	348:2
321:12	<b>agreeable</b>	567:8	365:7	349:6
325:8	560:14	<b>alcohol</b>	367:7	353:12
333:12	<b>agreed</b>	309:24	480:19	372:10
467:24	342:11	360:3,8	483:12,23	401:1
548:1	344:9	<b>alerted</b>	<b>Amended</b>	447:19
<b>agree</b>	362:18	365:1	297:5 298:2	448:23,24
299:10	396:7	<b>alerting</b>	<b>amendments</b>	467:14
307:13,21	397:18	331:11	370:12	471:24
308:7	560:17	<b>alive</b>	482:22	473:2
311:4	565:21	399:16	<b>America</b>	474:22
312:18	<b>agreeing</b>	<b>all-caps</b>	548:22	480:3
329:10	363:12,13	321:6	<b>americaf...</b>	539:11
330:3	369:4	<b>allege</b>	547:18	547:21
331:1	<b>agreement</b>	328:12	<b>American</b>	<b>Amusements</b>
342:10	395:3	331:2	320:11	289:5 294:6
355:11	403:22	448:14	<b>AMOA</b>	294:21
359:22	405:6	<b>alleged</b>	321:14	295:12
365:11	457:24	503:21	325:11,13	296:23
379:23	494:16,21	<b>allegedly</b>	325:17,17	316:14
384:9	539:17,22	328:13	325:24	317:11
388:1	560:24	405:4	326:13	318:7
395:19	<b>ahead</b>	<b>allow</b>	341:17	540:2
397:1,12	296:16	458:5 471:9	348:6	565:7
398:16	333:7	471:23	349:22	566:3
402:1	352:10	473:1	350:20	567:7
407:15	364:11	474:21	354:4	<b>analysis</b>
409:23	417:16	479:24	358:7	383:20
419:14	447:8,15	507:3	359:2	522:2
	495:3,24			540:25

<b>and/or</b>	452:5	<b>apologies</b>	302:5	<b>argu-</b>
340:25	456:24	333:19	<b>apprise</b>	475:1
370:11	463:12	384:14	332:3	<b>argument...</b>
499:15	464:14	518:17	<b>approaching</b>	403:14
524:8	467:4	<b>apologize</b>	343:22	405:19
567:14	468:7,16	333:16	<b>appropri...</b>	425:10
<b>Andy</b>	473:4,25	377:10	340:11	429:4
372:20	474:10	380:9	505:22	464:12
373:1,2	476:3	407:13	<b>approval</b>	474:8
384:21	477:15	425:9	354:2	477:14
385:10,23	479:7	484:19,24	<b>approve</b>	511:23
392:23	480:9	<b>apparently</b>	342:23	546:15
393:5,5	498:25	305:11	519:16	<b>arms</b>
394:9	508:25	306:16	527:9	400:24
<b>anger</b>	509:7	321:7,9,16	530:7,9,9	<b>Armstrong</b>
355:25	511:24	344:10	531:16,17	372:6
<b>angry</b>	520:13	361:3	532:18	<b>armstron...</b>
321:7	522:14	392:19	533:9,12	372:2
342:16	532:2,8	423:5	533:17	<b>Arnold</b>
<b>answer</b>	535:1	433:21	<b>approved</b>	372:20
302:15	547:10	454:6	397:10	373:1,2
307:8	<b>answered</b>	492:18	462:1	384:21
308:1,15	419:4	520:20	481:4	385:23
309:11	467:23	526:15	506:23	392:24
317:24,25	532:9	549:24	<b>approves</b>	394:10
331:15	<b>answering</b>	<b>appear</b>	534:1	<b>Arnold's</b>
332:6	419:1	530:18	<b>approxim...</b>	385:10
352:13	441:17	<b>appearance</b>	539:5	<b>arrange</b>
364:9,11	537:21	294:18	<b>April</b>	493:24
375:23	<b>anti-cap...</b>	295:20	324:8 491:8	<b>arranged</b>
376:16	343:5	<b>appears</b>	493:8,12	436:6
377:25	<b>anybody</b>	337:7,10	501:14	<b>arrangement</b>
378:12,20	309:19	345:9	505:2,19	458:4
379:6,11	310:8	435:6	<b>arbitrarily</b>	<b>arrived</b>
379:11,18	353:7	436:17	365:7	383:10
380:8	366:14	554:4	366:24	437:7
381:3,3,17	367:1	<b>appellate</b>	367:6	526:8
384:2	370:24	548:6	<b>area</b>	537:1
397:2,12	417:18	<b>applicable</b>	322:1	<b>arrows</b>
400:7	430:4	446:18	344:22	314:2
403:16,19	467:5	<b>appointed</b>	352:20,23	<b>articulated</b>
404:10	<b>anymore</b>	376:25	352:23	395:17
411:3	424:13	378:24	413:17	<b>articula...</b>
414:25	535:5	379:25	<b>areas</b>	438:3
418:23	<b>anyone's</b>	479:12	357:2	<b>aside</b>
422:3	477:2	<b>appreciate</b>	<b>arena</b>	314:14
429:17	<b>anyway</b>	322:8 449:6	402:20	416:8
431:4	364:6 370:4	452:22	<b>Arg-</b>	466:15,16
438:14	505:17	<b>apprecia...</b>	477:11	<b>asked</b>
439:15				

308:4	502:3	359:21	514:11	307:16
310:25	<b>aspects</b>	373:3	<b>ATC</b>	<b>attempting</b>
323:25	396:2	413:13,21	291:21	545:13
352:15,16	<b>assembled</b>	426:21	360:4,4,6	<b>attempts</b>
352:19	304:3	457:5,23	360:8,11	425:19,21
411:7	<b>assembly</b>	467:14	360:21	<b>attention</b>
422:4	319:19	477:23	361:23	374:13
445:7	320:17	480:17	362:21	416:21
468:1	<b>assessment</b>	530:1	364:16	<b>attorney</b>
477:5	505:9	543:6,13	366:13	359:6,16,21
489:17	<b>assist</b>	543:22	367:1	372:7
491:15	538:17	545:14	368:3,6,11	373:9,23
503:9	<b>assistance</b>	546:3,21	369:6	374:12
508:24	554:13	547:6	<b>ATC's</b>	375:16
509:8	555:9	<b>associat...</b>	360:14	377:1
510:21,24	<b>assistant</b>	543:10	361:4	379:2
514:2	482:25	545:16	363:3,7	383:10
527:19	485:15	547:4	364:20	389:10
528:10,18	486:1,4	<b>associat...</b>	<b>ATC-lice...</b>	496:22
529:2,9	535:20	310:9	364:18	498:6
537:8	<b>associate</b>	<b>assume</b>	<b>attached</b>	501:19
555:1,12	342:19	301:1	291:6	510:24
562:13	348:13	326:14,16	297:15	513:21
<b>asking</b>	373:4	332:4	299:11	514:23
309:10,13	<b>associated</b>	335:24	303:4	524:4
311:15	294:13	336:3,9,13	373:7	556:25
312:18	304:3	346:10	384:24	558:1,18
331:25	307:12	359:8	454:11	<b>attorney's</b>
335:12	309:19	376:19	461:2,3	501:19
351:2,20	310:8	377:18	523:14,22	<b>attorneys</b>
363:15	426:16	378:1	550:16	305:11
380:10	543:21	412:14	563:6	380:14
384:11,12	<b>associates</b>	429:24	<b>attaches</b>	509:25
388:13	429:18	430:4	461:1	510:15,16
418:21	<b>association</b>	459:25	<b>attachment</b>	510:19,21
421:19	307:7 310:7	460:21	297:4	511:5
428:7	310:8	462:8	349:14	512:23,25
430:9	321:14	486:9	373:18	513:5,12
433:9	322:3	488:2	381:21	<b>attribute</b>
466:16	325:14	521:21	383:1	508:12
467:15	340:20	539:3,7	461:5	<b>attributed</b>
518:5	341:4,10	562:17	489:8	385:5 451:7
529:23	346:25	<b>assumed</b>	<b>attachments</b>	<b>audio</b>
532:22,24	347:25	484:14	373:16	333:12,18
536:12	349:7	547:15	375:11	334:15,16
549:23	350:4	<b>assuming</b>	385:23	335:7
558:22	353:13	410:12	<b>attacked</b>	<b>August</b>
<b>asks</b>	358:4	412:23	441:24	301:22
389:12	359:8,10	457:22	<b>attempt</b>	305:22
<b>aspect</b>		492:7		

355:21	529:6,8,14	459:3,5	377:22	367:17
<b>auspices</b>	529:17	463:18	411:18	443:25
319:10	540:19	472:10,17	<b>Barney</b>	468:19
443:15	547:1	478:15	466:7	469:4
<b>authority</b>	<b>awhile</b>	487:19	<b>bars</b>	477:25
319:15,18	450:9	492:2	319:22	555:9
361:18	<b>awkward</b>	493:23	320:3	<b>basing</b>
365:1	437:9	502:2	321:23	390:5
389:17		504:10	343:6,23	<b>basis</b>
392:13	<b>B</b>	505:16	344:16	444:1
450:20	<b>b</b>	522:9	356:10	<b>Bates</b>
466:18	291:5	530:6	361:9	315:9,13
467:25	447:12,15	531:3	374:16	358:12,15
477:6	<b>B-e-n-g-...</b>	532:6	471:13	359:9
479:1	412:6	542:15	472:1	<b>bath</b>
<b>authorize</b>	<b>baby</b>	544:6	474:24	465:23
398:8	465:23	557:8	476:12	<b>battles</b>
<b>authorized</b>	<b>back</b>	560:7	480:21	456:4
554:13	295:9	<b>background</b>	481:7	<b>BBA</b>
<b>automati...</b>	306:15	401:18	539:16	289:24
315:11	310:14	457:4	<b>base</b>	564:14
390:8	320:19	<b>bad</b>	536:20,20	<b>Bear</b>
<b>available</b>	323:24	398:23	<b>based</b>	518:18
312:20	324:2	428:12	298:21	<b>beat</b>
449:13	325:18	501:3	362:14,14	349:8
<b>aware</b>	326:15	<b>ballot</b>	363:19	354:14
298:11	335:9	352:25	379:21	<b>Becker</b>
308:19	336:21	397:11	380:13	310:6
332:9	351:13	<b>Banilla</b>	383:19	<b>becoming</b>
357:13	360:1	517:5 518:4	392:15	529:8
361:23	361:7	519:22	395:11	<b>beer</b>
363:3	366:18,19	521:16	409:4	359:7,13
364:16,21	370:8	522:8	441:18	<b>beg</b>
378:18,21	371:16	526:5	446:21	328:8
380:16,20	380:15	532:15	451:4	<b>beginning</b>
416:5	387:20,24	541:10	468:10	328:24
417:19	388:3	<b>Banilla-...</b>	530:14,18	349:5
423:16,23	395:12	492:5	560:3	351:11
423:25	396:18	<b>bar</b>	<b>basic</b>	393:13
425:16,21	400:10	320:7,8	424:14	427:15
460:24	401:24	377:4,4	<b>basically</b>	<b>begun</b>
462:5,10	402:19	378:4,8,16	299:17	418:1
476:23	405:10	382:2,4	301:15	<b>behalf</b>
483:2,21	408:7	456:7	304:24	290:2,13
498:12,16	414:18,18	<b>barbecue</b>	314:5	294:20,22
498:17	419:5	418:3,3	338:20,22	295:12
521:7,7,10	420:4	<b>bared</b>	345:7	336:15
523:14	441:5	336:11	353:1	346:24
526:12	444:12	<b>barely</b>	354:13	368:17
	450:14		355:3	

399:8	524:13	405:13	316:25	342:8
467:13	526:8	<b>benefits</b>	317:6,6,12	359:11
499:22	531:10,18	406:11	<b>big</b>	379:7
511:21	531:19	<b>Bengimina</b>	406:13	388:22
516:9	533:23	412:1,2	<b>bigger</b>	401:19
555:9	534:11	413:14	475:16	420:21
557:25	535:4	<b>Benjamin</b>	<b>biggest</b>	445:21
558:17	541:20	373:10	364:3	494:2
<b>belief</b>	543:6	383:1,4,10	<b>bill</b>	501:4
385:5	558:2,19	389:9	392:24	507:2
<b>believe</b>	560:13	<b>best</b>	394:10,11	508:6
297:3 298:8	561:23	302:15	394:14	<b>black</b>
309:16	<b>believed</b>	322:4,6	416:10,15	389:15,22
312:15	363:6	334:5	416:18	389:25
337:22	364:17	353:13	417:19	390:2,13
338:20	366:5	368:12	419:13,17	390:20
339:21	404:19	369:7	419:22	391:11,20
347:8	409:23	400:4	420:1,11	391:24
356:3,7	439:6	417:12	420:25	393:15,24
358:8	445:17	429:15	422:24	394:5
364:22	492:9	436:25	423:1,8,18	395:10
376:2,7,10	517:4	445:3	424:2,5,14	397:22
376:11,25	531:5	462:9	424:20,23	398:20
378:3,13	532:16	465:2	425:5	399:13
387:6	534:6	502:23	459:21	416:21
392:5,8	551:2	538:14	461:1,2,8	465:5
396:11,23	<b>believes</b>	<b>better</b>	461:12,19	467:18
397:17,22	427:4	304:25	462:5	471:13
397:24	443:18,21	376:3	463:14	472:1
398:12	<b>believing</b>	396:13	481:20	473:7,21
400:6,13	534:18	427:24	483:11,22	474:23
408:2	<b>Ben</b>	428:3,4,5	483:23	476:11
409:3,14	373:10	428:14,18	484:3,6	480:20
410:24	547:17	428:19,21	487:3	481:7
416:18,25	548:17,18	428:23,23	488:14	508:10,13
421:3	556:10,18	429:19	489:1,9	508:16
426:14,17	556:22	431:7	<b>bills</b>	509:24
455:3	557:11,11	458:2	424:11	523:20
466:10,25	<b>beneficial</b>	494:2	<b>bingo</b>	524:1
467:12	355:7	545:2	479:2 480:5	545:5
471:7	<b>beneficiary</b>	<b>beyond</b>	517:12	<b>blanket</b>
481:22	317:23	343:20	525:21	402:3
494:1	<b>benefit</b>	<b>BFC</b>	526:19	405:25
504:25	320:5,9	447:5,12,18	529:18,19	<b>bless</b>
514:14	355:9	447:20	530:3	404:6
515:14	405:7,8	<b>Bible-th...</b>	534:2	<b>blessing</b>
516:17,21	406:10,12	399:3	<b>bit</b>	546:12
521:17	432:12	<b>Biermann</b>	302:16	<b>blind</b>
522:4	<b>benefiting</b>	316:8,23,25	330:23	542:2
523:9				<b>block</b>

536:6	542:11,16	495:16	<b>brought</b>	311:18
<b>blog</b>	544:12,15	504:1,11	374:13	314:17
548:19,19	549:4,8	555:20	457:24	315:1
<b>blooming</b>	550:7	556:3	498:13	384:5
392:22	<b>bought</b>	559:13	551:22	411:11
<b>blossoming</b>	492:4	<b>break-out</b>	<b>Brown</b>	487:19
392:22	517:22	371:7	291:10	493:8
<b>blow</b>	520:3	559:14	315:23	<b>business</b>
416:9	<b>bowling</b>	<b>breaking</b>	316:6	302:1
<b>Bluff</b>	471:10	455:10	318:20	303:21
358:5	475:7	<b>Brendon</b>	324:6,8	304:15
413:10	<b>box</b>	373:13,18	337:3,9,12	316:6,17
<b>board</b>	397:11	373:22,22	338:23	317:4,12
316:9 349:2	<b>boy</b>	374:9,11	345:25	317:14,15
436:7	447:12	375:5,9,9	346:1,19	318:7,23
479:12	<b>Brad</b>	375:16,24	347:10	322:3,20
<b>boards</b>	358:12,14	376:3,25	495:12	323:7,7
292:11	359:8	377:18	496:18	327:19
491:5,10	<b>brand</b>	378:3,24	498:4	328:2,6,13
491:11,16	520:6,18,19	379:24	499:15,20	331:13
<b>boats</b>	520:21	387:5	500:3	335:24
479:2	<b>Brandon</b>	500:6,6	501:15	341:4
<b>boiled</b>	386:21	<b>Brent</b>	502:3,5,16	344:15,20
548:8	436:5,6	543:1,14,22	502:21	348:2,4
<b>bold</b>	437:7,9,13	<b>brent@br...</b>	<b>browse</b>	361:7
470:16	439:5,17	542:23	362:4	367:10
<b>bottom</b>	440:15,25	<b>briefly</b>	<b>browser</b>	370:6
296:24	442:15,18	379:10	407:8	390:25
300:8	443:18	<b>bring</b>	<b>browsing</b>	391:15
313:12,14	444:6,21	310:20	461:17	392:1,9
313:17,22	445:7,15	458:9	<b>Bryan</b>	401:1
314:1,12	446:18	545:23	290:5	403:9
314:16,21	454:18	<b>broad</b>	295:20	404:18
314:24	<b>Brandon's</b>	309:20	565:2	405:3
315:17	440:1	<b>broader</b>	<b>BS</b>	413:11
338:21	441:18,21	318:3	557:2	430:18,21
358:9	442:13	<b>broadly</b>	<b>buddy</b>	430:25
372:20	<b>Branson</b>	318:13	481:22	439:19,21
373:17,21	352:23,23	<b>Broadway</b>	<b>budget</b>	439:23
384:21	<b>break</b>	290:7	337:16	440:10,11
408:16	335:16	294:14	340:9,11	440:13
410:5	370:23,24	565:3	361:12	441:1
432:19	371:1	<b>broke</b>	369:23	442:21,25
434:16	421:18	351:11	505:24,25	443:1
459:24	449:18	352:9	506:9,16	444:17
482:10	458:16,17	<b>broken</b>	506:18,24	447:18,19
491:7	459:7	558:5	<b>built</b>	448:17
519:2,25	492:23	<b>brotherhood</b>	302:11	449:24
536:1	493:2	404:14	<b>bunch</b>	454:22
				457:14



465:13	303:1,2,6	379:4,5	329:12,14	503:10
477:1,2	303:7,8,20	381:1	330:6	<b>caused</b>
496:25	304:5,22	383:25	331:2	308:24
497:7,17	306:1,3,4	431:3	360:21	<b>CAVE</b>
501:22	306:9,16	438:13	361:3	290:5 565:2
503:5	306:22,24	452:3	362:9,12	<b>Cave's</b>
524:8	307:5,9,10	456:22	378:14	295:20
534:8	307:24	464:13	446:6	<b>caveat</b>
540:2	309:2	467:3	447:1,2,4	476:9
545:8	333:12	468:14	449:20	<b>cc</b>
<b>businesses</b>	377:24	479:5,6	466:19	372:1 493:7
318:22	387:3	480:7	514:18	542:20,20
324:17	388:2	534:24	515:2,15	<b>cc'd</b>
344:3,14	421:19	547:8	516:3,11	540:18
355:17	422:1	<b>capabili...</b>	516:12,13	542:2
405:8	449:14	357:3	516:14,15	556:16
457:13	455:8	<b>capacity</b>	516:19	<b>cc's</b>
<b>Buster's</b>	471:24	486:9	521:7,9	504:19
466:3 469:6	473:2	<b>capital</b>	524:6	507:24
469:11	478:4	401:10	548:5	<b>ccing</b>
471:9	491:24	<b>capitalize</b>	564:10	313:8
475:6,16	502:22	321:4	565:8	<b>CCR</b>
487:1	538:11	<b>capitol</b>	566:3,5	289:25
<b>buy</b>	548:20	502:8,10	567:7,9	564:15
519:3,16,22	<b>called</b>	<b>caps</b>	<b>cases</b>	<b>centers</b>
526:16	301:23	320:22	450:3	471:10
527:8	326:25	322:23	498:18	475:8
530:7,8	334:22	<b>captured</b>	<b>Casey</b>	<b>Central</b>
531:14	349:14	487:3	507:24	294:5
532:14	360:6	<b>carbon</b>	542:3	<b>certain</b>
533:8	376:22	554:6	<b>casino</b>	412:15
534:2,22	387:17,19	<b>career</b>	352:21,23	482:4
	387:24	321:12	400:24	490:12
	388:12	366:15	401:2,10	506:20
	436:4	<b>careful</b>	543:3	<b>certainly</b>
	447:5	466:5	549:19	361:1 398:2
	478:3	468:20	<b>casino-type</b>	449:16
	547:16	<b>Carolina</b>	465:5	453:25
	548:2,21	492:16	<b>casinos</b>	487:4
	557:2	<b>Carroll</b>	479:2 480:5	517:7
	<b>calling</b>	413:19	543:2	<b>certificate</b>
	334:14	507:23	544:25	382:10
	388:9	<b>carved</b>	547:5,22	564:1
	408:23	332:20	<b>catch</b>	<b>certific...</b>
	559:6	<b>case</b>	376:22	382:10
<b>call</b>	<b>calls</b>	289:7 294:5	501:1	<b>certific...</b>
298:25	308:14	294:7	558:8	382:9
302:9,10	375:22	306:25	<b>cause</b>	<b>Certified</b>
302:11,13	376:14	328:11,11	429:2	564:14
302:16,19	378:10			

<b>certify</b> 564:4 567:11	464:9 468:21 475:21 534:17 566:9,13 566:17,21 566:25	360:12,13 363:8,12 364:3 365:10 368:22	475:8,17	<b>clarific...</b> 320:14 401:16 472:3,4 473:24 474:14 485:7 533:16,18
<b>cetera</b> 487:1 540:13		<b>Charlie</b> 447:13	<b>circulating</b> 401:9	
<b>chain</b> 357:19 406:24 407:7 415:7 505:5	<b>changed</b> 366:23 426:3 464:4 479:10,11	<b>check</b> 529:25 530:18	<b>circumst...</b> 377:12 412:25 454:4	
<b>chains</b> 313:14	<b>changes</b> 366:2 370:11 468:10 479:10 565:16 567:13,16	<b>Cheese</b> 471:11 475:8,17	<b>circumve...</b> 337:17	<b>clarify</b> 482:17
<b>chair</b> 425:5 505:21		<b>Cheese's</b> 465:13	<b>citizens</b> 397:10	<b>classifi...</b> 468:13
<b>chairman</b> 316:9	<b>channelling</b> 344:7	<b>Chermak</b> 519:24	<b>city</b> 290:17 346:14,24 349:20,23 351:1,7,18 351:22,25 369:20 373:3 392:20 413:16 505:13 536:17 550:23 552:9	<b>classified</b> 529:1
<b>champion</b> 385:15	<b>Char-</b> 359:17	<b>Chermark</b> 519:23		<b>classify</b> 448:22
<b>chance</b> 331:12 332:4,7,21 335:20 337:23 354:18 368:12 369:7 385:7,12 389:14,21 390:6 485:20 492:5,8 526:6 527:19 528:11,19 529:1 541:10 547:6 558:3,20	<b>character</b> 406:9 <b>characte...</b> 526:13 <b>characte...</b> 526:14 <b>characte...</b> 341:2 343:14 527:12 545:17 <b>characte...</b> 499:9,11 502:11 <b>characte...</b> 405:10,23 <b>charges</b> 498:13 503:20 <b>charitable</b> 396:5 <b>charities</b> 453:7 <b>Charles</b> 358:10 359:17,19	<b>chief</b> 550:15,22 550:23 551:4,22 552:2,7,12 553:21 554:3 <b>Chiefs</b> 552:7 <b>Chipman</b> 291:12 338:24 339:2,3,7 345:18 <b>choosing</b> 381:10 <b>Christmas</b> 561:5,8 562:11 <b>chronolo...</b> 542:10 <b>chronolo...</b> 493:11 <b>chronology</b> 313:15 <b>Chuck</b> 412:1,2 413:16 465:13 471:11	<b>claim</b> 329:9 444:2 446:4 451:12,24 474:22 <b>claiming</b> 365:10 401:4 475:6 <b>claims</b> 510:25 511:1 557:14 <b>clari-</b> 533:14 <b>clarifica-</b> 533:14	<b>clear</b> 297:16 330:13 492:16 560:17 <b>clearly</b> 400:8 <b>click</b> 518:20,21 <b>clicked</b> 562:9,9 <b>client</b> 335:1 421:18 560:4 <b>close</b> 491:12 521:15 522:9 539:4 562:22,23 <b>Club</b> 320:10 <b>clubs</b> 343:6 344:17,23 <b>clue</b> 416:7 <b>coaster</b> 505:15 <b>Cobb</b> 292:3,12,15 293:7

347:24,25	<b>comes</b>	515:7,9,25	312:22,22	449:23
348:8	302:14	517:24	491:2	545:9
357:22	375:17	524:18,25	<b>communic...</b>	<b>compiled</b>
372:1	428:14	525:22	309:19,25	303:9
385:21	478:14	526:4,18	310:1,2,4	<b>complain</b>
415:8	<b>comfortable</b>	526:23	310:5,6,10	328:8
435:23	538:13	527:7	311:2,9	<b>complained</b>
436:4	<b>coming</b>	529:20	314:13	506:11
441:9	305:6	530:1,2	499:16	<b>complaint</b>
459:13	383:15	531:7,16	<b>companies</b>	408:25
487:9	423:1	532:17,20	523:19	409:5,11
493:7	470:23	533:4,17	<b>company</b>	433:14
504:19	<b>commander</b>	534:1,15	317:10,14	435:3,12
505:7	387:10	534:21	317:25	551:1,9,15
507:23	388:16	536:10,23	318:1,14	552:3
540:11,18	436:7	538:12,23	318:24	<b>complaints</b>
542:2,20	529:4,23	539:6	319:1,6	433:20
<b>Cobb's</b>	<b>commas</b>	541:9	326:25	435:14
440:2	465:3	550:18	327:12	531:6
<b>Cobbs</b>	<b>comment</b>	553:18	343:1	534:14,20
440:11	335:8 525:9	554:17	344:12	<b>complete</b>
<b>Coin</b>	<b>comments</b>	555:10,13	387:12	561:1
519:23,24	369:1	557:24	412:25	<b>completed</b>
<b>Coin-Op</b>	<b>commercial</b>	558:16	436:15	299:21
289:6 316:7	317:5	<b>commissi...</b>	437:24	<b>completely</b>
316:13,16	399:10	479:10	447:5,10	391:15
316:18	<b>commission</b>	536:19	448:3,14	430:22
317:12	309:25	541:5	491:18	474:17
318:8	366:14	551:6	<b>compared</b>	500:15
348:3	408:23	<b>committee</b>	390:14	<b>comport</b>
540:3	409:12	292:22	464:18	396:11,23
565:7	414:6,13	341:11	<b>compete</b>	<b>compound</b>
566:4	415:18,24	345:3	323:5 329:4	380:7
567:8	433:11,12	425:5	329:11	456:23
<b>collecti...</b>	435:4,13	505:22	331:3	474:8
340:24	440:20	509:19	344:13	477:14
<b>combine</b>	454:8,12	525:14	534:8	<b>comprehend</b>
354:4	462:1,2	<b>committe...</b>	<b>competed</b>	486:13
<b>come</b>	467:10,11	340:10	344:20	<b>comprehe...</b>
311:7	467:16	<b>committees</b>	<b>competes</b>	365:3,9
330:16	477:24	340:16	322:20	<b>compromise</b>
392:22	478:19,23	341:15	<b>competing</b>	545:19,20
402:24	479:13	<b>common</b>	318:24	<b>computer</b>
492:19	503:13	544:25	454:22	312:25
501:9	510:7	546:18,20	<b>competition</b>	334:16
512:14	511:10,20	546:22	506:15	521:24
526:4	512:14	<b>communicate</b>	<b>competitive</b>	<b>concept</b>
527:8	513:6,13	373:6	402:20	356:25
560:7	513:18	<b>communic...</b>	<b>competitors</b>	545:4

<b>concern</b> 340:21 346:25 356:14 361:21 362:12,13 364:3 365:5 369:4 439:19 513:18 <b>concerned</b> 328:3 344:1 353:8 367:11 370:1 395:12 433:19 534:5 <b>concerning</b> 324:17 341:13 364:1 <b>concerns</b> 374:17 438:24 549:14 <b>concludes</b> 383:19 <b>conclusion</b> 311:7 375:22 376:9,10 378:11 381:2 383:15 384:1 438:13 452:4 464:13 467:3 468:15 479:6,9 480:8 <b>conduct</b> 404:20 560:22 <b>conducting</b> 540:25	<b>Conference</b> 345:3 <b>confined</b> 452:1 <b>confirm</b> 519:21 561:25 <b>confiscate</b> 496:24 497:6 499:23 501:21 503:4 <b>confused</b> 351:7 402:7 438:15 <b>confusing</b> 315:16 <b>confusion</b> 549:2 <b>connection</b> 497:4 <b>conserva...</b> 350:10 <b>consider</b> 398:3 465:21 <b>considered</b> 355:16 487:2 551:15 <b>considering</b> 354:13 <b>consistent</b> 298:20 309:5 435:10 488:16 516:25 548:11 553:8 <b>consiste...</b> 368:11 <b>constituent</b> 316:6 <b>constitu...</b> 378:25 <b>Constitu...</b> 385:13	<b>contact</b> 389:1 443:13 536:15,19 554:17 <b>contacted</b> 514:11,15 <b>contacting</b> 340:4 <b>contained</b> 487:18 489:11 <b>contempo...</b> 301:11,13 303:20,21 <b>content</b> 339:22 349:12 362:4 505:3 <b>content's</b> 342:8 <b>contest</b> 385:12 540:13 <b>context</b> 368:22 381:20 392:6,18 425:12,14 440:15 455:13 457:4 495:23 518:25 534:9 <b>Continuance</b> 296:22 <b>continua...</b> 297:19 <b>continue</b> 295:10 299:8 319:14 320:16 367:10 389:5 437:6 470:10	471:11,24 473:2 474:21 523:23 524:14 560:18,25 <b>continued</b> 289:14 346:24 514:10 530:4 <b>continues</b> 360:23 424:14 <b>continuing</b> 297:7 320:23 385:3 508:10 <b>contract</b> 440:8 444:17 448:16 450:12 524:8 <b>contractor</b> 319:7,8 440:7 507:11 <b>control</b> 309:24 315:10 360:7,8 366:16,17 417:8 496:21 501:19 506:12 <b>controlled</b> 506:9 <b>conundrums</b> 490:17 <b>convenience</b> 292:2 394:4 395:14 539:16 565:16 <b>convenient</b> 421:20	<b>conversa...</b> 298:25 350:12 352:1 402:14 404:21 405:15 409:17,18 409:20 410:22 418:9 423:13 476:24 479:9 499:7,13 500:9 548:12 <b>conversa...</b> 321:10 345:23,24 346:5,23 349:5 356:16 375:5,8 393:9 452:19 478:11 499:3 <b>convicted</b> 424:7 463:22 <b>conviction</b> 360:18,21 362:24 363:11 364:19 368:25 <b>convince</b> 498:4,5 <b>cooperation</b> 298:9 319:10 565:22 <b>coordinate</b> 496:19 501:15 503:2 <b>coordinated</b> 502:5
--	--	---	---	---

<b>coordina...</b>	338:13,18	511:3,11	491:21	553:21
497:14	339:18,19	511:17	497:1	554:3
<b>copied</b>	342:2	514:5,13	510:12	<b>county</b>
337:3	345:8	515:13	513:10	373:11,12
412:15	347:22	516:6,9,16	514:19	373:23
499:18	357:23	517:6	524:11,19	374:2,5,12
542:24	367:24	520:5	525:1,24	374:17,23
<b>copy</b>	372:3,4	530:20	530:10	375:19
433:5,6	373:24	535:16	538:18	377:2
454:12	380:18	537:13	539:19	379:1,22
527:15	383:2,24	540:4,5	541:2	379:24
528:16	385:24,25	541:19	543:17	380:4,14
542:2	398:25	542:4,6,21	548:9	380:16,17
554:6	402:11,23	542:22,24	<b>correspo...</b>	380:21,21
565:14	404:8,20	543:23	291:23	381:11,12
<b>copycat</b>	407:1,19	546:6,11	372:22	383:16
475:25	407:22,23	550:13	373:8	386:2,8,11
<b>copying</b>	407:24,25	551:17	385:4	386:17
505:7	408:19	552:3	553:23	387:10,11
<b>corner</b>	411:19,24	553:14,23	<b>could've</b>	387:18
355:18	413:7	554:6	295:22	389:2,7
494:13	415:11	556:14,18	411:7	496:19
<b>corporate</b>	426:24,25	564:5	426:1	497:13,20
295:11	436:1	567:15,19	462:15	497:20
296:22	446:8,14	<b>corrected</b>	537:6	498:9,13
410:8	459:14,17	488:24	<b>council</b>	498:14,18
<b>corporat...</b>	459:21	<b>correction</b>	514:16	498:25
320:8	462:3	524:22	<b>counsel</b>	499:4,21
<b>correct</b>	472:5	566:1	294:17	500:7,10
295:13,25	474:25	<b>correctly</b>	298:8,18	500:24
296:24	475:2	316:11	330:18	501:16
297:6	479:23	319:2,25	452:7,12	502:22
298:3	480:22	321:2	541:8	503:3,6,7
302:7	481:8,12	324:25	550:17,18	503:15,19
308:9	483:13,14	337:19	554:16	523:7,10
310:22	485:12	343:9	564:9	523:11
312:23	486:21	344:17	<b>Count</b>	524:3
313:9	491:5,24	368:13	552:7	533:20
316:2,16	492:7	374:23	<b>counties</b>	540:23
316:21	493:8	386:5,14	558:1,18	541:18
322:20,21	494:6,7	386:15	<b>counting</b>	547:25
322:23	497:7,18	409:1	432:19	552:20,20
323:21,22	498:7,7	416:11	<b>countless</b>	552:24,25
324:9	501:23	434:22	449:22	553:2
325:6,19	503:6	436:9	<b>Counts</b>	557:3
325:20	504:20,22	437:14	550:10,15	567:4
329:16	505:10	449:25	550:22	<b>County's</b>
333:25	507:24	453:9,13	551:4,23	379:1 498:6
337:5,9	508:1	456:7	552:2,7,12	500:5
	509:16	465:8		<b>couple</b>

333:13	296:11,15	473:9	306:4 343:4	560:12
388:12	296:17,18	474:11,14	506:24	<b>currently</b>
393:6	300:18,22	477:20	<b>created</b>	295:15
491:3	300:23	480:11	300:25	332:12
<b>course</b>	327:18	492:25	301:10	446:25
304:15	329:2,6,8	493:4	<b>creative</b>	478:23
382:22	331:21	496:11,12	511:18	<b>customer</b>
507:6	333:10,20	504:1,5,10	<b>crime</b>	444:21
<b>courses</b>	333:21	504:12	496:21	448:17
382:7	334:18,20	512:1	501:18	524:10
<b>court</b>	334:25	520:22	540:22	525:20
289:1 294:9	335:10,17	522:17	<b>crimes</b>	527:2
294:13,15	335:18	528:4,7	503:11	534:5
294:16,24	351:15	547:13	<b>criminal</b>	535:5
327:17	352:15	555:23,25	360:17,20	<b>customers</b>
351:12	370:21	556:6	362:23	365:16
358:11	371:2,11	558:7,11	363:10	367:9
371:8	371:18	558:24	364:18	467:17
396:19	376:2	559:19,22	368:25	<b>cut</b>
412:5	378:1,15	560:1,3	376:4	327:17
432:13	378:22	561:3,12	380:3,23	329:21
472:9,16	379:14,20	561:15,24	396:12,25	361:12
515:13	380:12	562:5,9,18	398:15	412:18
516:3	381:7,22	563:3	468:22	487:8
548:6	396:17	<b>crane</b>	471:22	508:24
558:9,13	397:3	466:17,19	472:25	<b>cutting</b>
561:13,17	403:18,19	466:22	474:20	419:3
561:20	404:4,13	469:14,15	497:25	
562:4,8	405:22	469:21,22	503:20	<b>D</b>
564:14	407:6,14	470:2,5	<b>crisis</b>	<b>D</b>
565:25	407:15	<b>cranes</b>	509:25	294:1
<b>courthouse</b>	411:2,9	465:12	<b>CRR</b>	<b>d-o-c-x</b>
388:9	421:23	<b>Crawford</b>	289:25	349:15
<b>cover</b>	428:6,20	496:20	564:15	<b>d/b/a</b>
307:14	431:12	497:13	<b>CSR</b>	289:6
380:25	432:15	498:9	289:25	316:17
506:25	434:3,8,10	499:4,21	370:12	565:7
<b>COVID</b>	434:15	501:17	564:15	566:3
326:2	438:19	523:10	<b>CST</b>	567:7
<b>crack</b>	439:12	524:2	289:20	<b>Dalton</b>
532:6	447:17	540:23	<b>curious</b>	372:2,5
<b>crafting</b>	449:16,19	541:18	359:24	385:22
471:20	452:9	547:24	<b>current</b>	<b>Dan</b>
472:23	457:15	552:20,24	335:19	315:23
<b>Craig</b>	458:16,24	553:1	336:10	324:6,8
290:14	459:5	557:3	433:12	337:3
291:3	467:20	<b>CRC</b>	479:22	345:25,25
294:22,22	468:18	289:25	505:9	346:19
295:8,24	472:9,13	564:15	548:11	347:10
	472:18,19	<b>create</b>		

482:15,21	490:13,15	485:17	508:5	<b>December</b>
482:24	490:18	486:3	516:14,19	289:19
487:20	494:9	487:1	536:3	294:4
535:18,19	551:23	497:12	537:13	565:11
535:24	560:6,18	499:4,8,14	560:12	<b>decent</b>
540:19,19	565:20	499:21	567:20	313:16
<b>danbrown...</b>	566:5	523:3,7	<b>days</b>	337:23
313:8,19	567:9	536:8	565:20	<b>decide</b>
<b>dance</b>	<b>dated</b>	540:18	<b>DDCC</b>	362:9
465:19	313:18	542:1	496:22	<b>decided</b>
<b>Dang</b>	315:23	547:24	<b>de-</b>	337:13
428:6	323:20	548:15	425:3	345:3
<b>Daniel</b>	337:5	550:3,13	<b>deadlines</b>	478:24
482:24	338:12	555:11,12	521:12	560:5
485:25,25	339:17	<b>Dave's</b>	<b>deal</b>	<b>decides</b>
486:3,23	342:1	463:1,15	308:20	466:8
535:16	357:21	470:24	342:25	<b>decision</b>
536:2,12	372:21	471:23	343:12	420:10
537:21	406:25	473:1	396:1	430:25
540:18	411:11	474:21	402:21	<b>declare</b>
<b>darn</b>	415:10	480:19	414:2,5	512:16
370:7	435:24	481:10	417:13	567:18
<b>dart</b>	459:14	482:13,22	440:3	<b>declared</b>
327:4,16,21	504:22	483:10	476:21	466:19
331:13	508:1,5	488:14	494:23	540:13
335:23	538:6	<b>davescha...</b>	497:16	<b>decrease</b>
<b>dartboard</b>	542:6	337:4	505:14	366:2
327:15	547:18	<b>David</b>	<b>dealing</b>	<b>deduce</b>
<b>dartboards</b>	549:5	463:7	308:17	359:11
328:14,15	550:4,16	523:13	<b>dealt</b>	379:3,12
329:11,18	553:13	536:9,14	501:5	379:13
331:3	<b>dates</b>	538:11	<b>Dean</b>	<b>deducing</b>
<b>darts</b>	490:1	548:13	289:18	454:7
327:6,10	<b>dating</b>	552:18,19	291:2	<b>deemed</b>
529:11	463:18	552:22	295:2	465:6,11
<b>dash</b>	<b>daughter</b>	<b>day</b>	565:7	475:12
314:22	412:8,24	300:11	566:2	477:3,5,6
338:17	413:20	303:9	567:6,11	477:10
463:1	<b>Dave</b>	305:21	<b>Dear</b>	<b>deems</b>
<b>date</b>	313:8 463:3	306:14	565:9	477:20
292:8 294:4	463:14	329:22	<b>decade</b>	<b>default</b>
301:2,7	466:2	362:10	408:13	422:23
302:22	469:6,11	367:13	<b>decades</b>	<b>defend</b>
339:18	471:9	390:12	362:3	450:4
369:21	475:6,16	416:25	429:19	<b>defendants</b>
411:13,16	481:23	420:8	465:7	289:12
412:23	482:11,21	475:19	475:13	290:13
414:22	483:16,20	482:5	477:3	294:23
440:21	483:21	485:17	545:6	<b>define</b>
	485:11,14	498:15		

301:13	296:12,21	<b>designated</b>	522:18	391:4,21
448:25	297:16	379:1	<b>device</b>	393:17,24
<b>defines</b>	298:3,15	<b>desire</b>	333:25	393:25
430:2	310:21	368:17	357:5	395:10
<b>definitely</b>	311:12,21	544:24	390:23	396:10,23
520:21	312:4,5	551:14	395:6	397:23,24
<b>definition</b>	313:5	<b>desired</b>	398:10,11	398:4,21
302:2	325:13	505:23	398:13,14	399:12,13
391:19	371:20,24	<b>despite</b>	409:7	409:13,23
461:22	387:16	534:12,18	461:22,25	410:15
466:23	399:2	557:22	466:24	423:19
468:24	406:19,23	558:15	468:13	438:9,22
470:11	435:18	<b>detach</b>	470:12,14	438:25
<b>definitions</b>	467:8	430:16	492:5,9,10	439:7
385:11	493:5	<b>detail</b>	513:8	448:23,23
<b>definitive</b>	507:17	298:11	515:7,23	448:24
525:22	527:16	312:19	516:5	470:7
<b>defunct</b>	528:8	394:15	517:3,5	471:13,24
325:21	538:2	<b>detailed</b>	521:16	472:1
<b>degree</b>	560:5,10	300:4	522:1,1,8	473:2,7
361:25	560:18,25	505:10	522:9	474:22,24
378:7	561:1,18	<b>details</b>	527:8	476:12
518:3	563:4	372:16	532:15,16	480:3,21
521:23	564:3	415:25	538:15	481:7
<b>delivering</b>	565:6,10	433:4,10	541:10,12	497:24
356:24	565:13,14	434:21	<b>devices</b>	498:15,19
<b>demand</b>	565:15	435:11	299:6 300:1	503:22
510:6 511:8	566:1	521:11	317:8,9,11	506:1
524:21,24	567:12,14	<b>determin...</b>	317:17,18	511:22
<b>deny</b>	567:17	511:16,21	318:2,5,6	512:16
363:21,22	<b>depositions</b>	513:8	318:15,16	527:4,19
375:10,13	560:12	525:23	318:16	527:21
445:16	<b>describe</b>	533:5	321:22	528:11,13
501:13	318:4	538:16	323:5	528:19,21
<b>Department</b>	354:16	551:6	328:12,16	528:22
309:23	445:3	<b>determine</b>	329:3,11	529:1,6
<b>depending</b>	453:19	389:16	331:3,12	531:5,13
336:14,17	527:12	392:12,20	332:4,7,7	533:5
479:11	<b>described</b>	510:7	332:19	534:15
<b>deploy</b>	318:14	511:10	335:21	541:19
506:19	450:5	524:17,20	336:11,12	558:3,20
<b>deposed</b>	526:10	560:19,20	351:23	559:6
516:19	<b>describing</b>	<b>develop</b>	360:16,18	<b>DGE</b>
<b>deposition</b>	423:12	433:6	362:23,24	292:4
289:17	<b>description</b>	<b>developed</b>	363:7	435:25
291:7,8	322:6,8	431:22	366:6	436:8,11
292:23	<b>designate</b>	<b>develops</b>	368:8,19	436:13
294:3,11	496:23	430:20	368:19	438:9
295:12	501:20	<b>devi-</b>	375:5,6,18	<b>Diamond</b>
			383:21,23	318:21



319:1,4,4	382:13,18	336:21	307:2	<b>dispute</b>
319:6,19	<b>differ</b>	344:13	346:11	374:2
320:18,20	335:3	346:7	510:5	378:23
322:10,17	<b>difference</b>	542:8	511:8	379:16,19
323:1	297:11	<b>director</b>	515:22	<b>distinction</b>
324:17	320:5,25	341:17,19	516:4	389:24
337:14,23	391:11	348:6	524:17,23	428:22
338:18	406:7,9,12	358:4,6	<b>discuss</b>	473:23
343:1,7	406:13	359:9	311:1	475:13
344:11,19	457:6	399:25	312:14	<b>distinguish</b>
345:4	458:9	412:3	325:18	320:4
349:9	<b>differences</b>	536:9	386:4,14	<b>distingu...</b>
350:1,6,21	297:15	538:12	386:18	390:8
354:11,20	<b>different</b>	<b>director's</b>	387:21	<b>distracted</b>
356:14,16	304:3 311:3	536:15	491:24	314:19
372:11	340:8	<b>directors</b>	<b>discussed</b>	514:7
393:3	342:9	340:22	333:23	<b>distribute</b>
400:9,12	357:5	<b>disagree</b>	339:12,23	523:20
400:13	364:7	381:10,13	346:1	<b>distribu...</b>
401:2	390:16,22	381:18	352:24	565:20
402:2,8,23	390:22	383:9,16	409:10	<b>distributor</b>
403:8,11	391:15,15	383:23	411:21,23	517:4,8
404:1,6,20	391:25	384:3,10	485:9	<b>Distribu...</b>
405:3,16	392:4,9,10	384:11	494:3	492:15
436:14,15	393:7	401:17,19	543:25	<b>district</b>
438:17,24	397:23	426:19	554:10	289:1,2,3
439:7	421:21	476:5	<b>discussion</b>	294:9,9,10
440:3,8	428:17	480:10,13	349:14	340:2
441:4,22	505:5	530:24	350:18	516:14
442:2,5	520:20	532:12	360:3,10	<b>dividend</b>
443:7,20	526:25	551:25	459:19	318:12
456:16,19	<b>differently</b>	559:5,12	482:16	<b>division</b>
457:11,25	421:22	<b>disagreeing</b>	488:14	309:24
457:25	<b>difficult</b>	476:13	560:3	496:21
494:5,12	307:25	<b>disappoi...</b>	<b>discussions</b>	501:18
494:23	365:18	321:8	314:12	540:21
506:1,16	395:8	337:12	340:11	<b>document</b>
507:7,10	<b>digress</b>	345:2	485:17,18	296:19
545:24	470:9	427:19	547:2	298:14,14
<b>Diamond's</b>	<b>DIRECT</b>	<b>disband</b>	<b>dislike</b>	298:22,23
401:22	295:7	325:24	546:22	299:11
<b>diary</b>	<b>direction</b>	<b>disclosures</b>	<b>disliked</b>	303:14
308:23	390:19	521:8	547:6	305:9
<b>DiCaprio</b>	500:20	<b>discontent</b>	<b>dismissed</b>	306:9,11
376:21	548:3	326:2	516:13	307:6
<b>dictate</b>	564:8	<b>discovery</b>	<b>disparaging</b>	313:4
466:20	<b>directly</b>	297:25	429:23	323:12,13
<b>didac-</b>	322:20	304:20	<b>displeasure</b>	323:15,15
382:17	324:7	305:10	340:6	331:18
<b>didactic</b>				

338:5,5,6	353:2	407:17,21	565:12	433:23
338:10	365:8	408:1,17	<b>duly</b>	467:9
339:16	366:11	410:5,13	295:3	477:22
341:20	369:22	410:21	<b>duplicate</b>	<b>earning</b>
371:22	401:13	411:15	433:19	356:10
407:4,7	403:12	414:7,21	<hr/>	<b>easier</b>
432:16	406:1	432:21	<b>E</b>	394:7
434:4	425:6	489:6	<hr/>	<b>Eastern</b>
449:17	431:10	491:3,7,23	<b>e-</b>	289:2,3
459:8,12	440:12	529:22	421:1	294:9,10
472:11	443:1	530:16	<b>E</b>	516:14
490:21,24	444:23	538:5,10	290:1,1	<b>easy</b>
504:13	446:19	<b>Donny</b>	291:1,5	378:17
509:11,12	464:16,22	411:15	294:1,1	388:8
518:10	474:17	<b>door</b>	465:13	<b>ebb</b>
522:18,20	475:8,10	455:21	471:11	425:3
522:21,23	509:24	<b>dot</b>	475:8,17	<b>Ed</b>
535:9,11	513:23	481:3,3,3,3	<b>e-raffle</b>	519:23,24
538:1	526:9	<b>downfall</b>	523:17	541:7
540:7,10	540:2	518:15	<b>Eagles</b>	<b>edits</b>
541:22,22	552:5	<b>dozen</b>	320:10	538:14
542:11	<b>Dollar</b>	540:24	<b>earlier</b>	<b>educated</b>
549:5	349:20,23	<b>draft</b>	321:15	353:18
553:10,12	351:1,6,18	488:14	325:12	<b>effect</b>
<b>document...</b>	351:22,25	<b>drafted</b>	338:1	328:10
300:10	465:15	302:6	343:13	437:4
<b>documents</b>	<b>dollars</b>	304:24	355:25	547:12
298:17	318:25	539:4	361:10	<b>effective</b>
299:3	342:24	<b>drafting</b>	386:23	429:1,7
303:19	<b>dolu-</b>	349:22	387:16	430:2,5,24
304:3,20	318:25	<b>draw</b>	399:1	430:25
305:4,20	<b>dominant</b>	416:21	404:16	<b>effectiv...</b>
305:24	326:4,6	465:25	409:15	427:12
307:1,12	<b>Don</b>	475:20	433:18	<b>effects</b>
307:15,17	411:20	544:9	437:1	468:12
312:12,21	<b>donate</b>	<b>driven</b>	454:17	<b>effort</b>
315:5	353:7	399:8	462:16	434:22
354:9	<b>donated</b>	<b>drug</b>	465:15	444:19
426:9	353:6	496:21	483:24	507:6
530:25	<b>donations</b>	501:18	506:8	<b>efforts</b>
531:3	416:4 423:4	540:22	508:6	292:14,17
<b>doing</b>	<b>Donna</b>	<b>duck</b>	530:25	340:21
312:25	298:24	510:10,10	531:3	354:18
313:16	301:2,10	510:11	537:3	355:5
317:11	302:6	<b>due</b>	<b>earliest</b>	414:2
318:7	305:13	473:15	565:15	427:13
322:19	308:5	477:12,19	<b>early</b>	494:4
331:10	309:13	521:8	366:19	547:2
349:4,13	406:24	524:9	387:7	<b>either</b>
350:2				

301:2	508:13	360:2,11	538:5,10	414:15
312:20	510:1	362:15,20	538:21	<b>employees</b>
320:7	515:8	363:19	539:4	344:15
330:17	524:2,7	370:6	540:10,17	367:10
336:13	525:7	371:25	541:14,25	399:16
340:9	546:23	372:19,20	542:1,8,13	439:24
359:9	565:7	373:12,18	542:16	<b>enable</b>
366:23	566:4	374:9	547:17	350:19
376:25	567:8	375:11,14	549:4,5,18	416:1
378:24	<b>Elkin</b>	385:20,23	550:3,10	433:6
379:25	524:4	389:6,9	552:2,13	<b>enabling</b>
399:9	<b>em</b>	406:24	552:17,18	465:6
425:10	354:14,14	407:17	553:20,23	478:24
431:18	534:3	408:17	554:1,2,2	479:23
450:3	<b>email</b>	411:10,10	554:9	<b>Enclosed</b>
453:16	291:10,12	411:15,20	555:2	565:14
464:5	291:14,16	415:7,7	556:10,11	<b>encouraged</b>
493:18	291:19,21	432:19,20	556:12	414:10
515:24	291:23,25	432:20	561:25	<b>ended</b>
555:11,20	292:4,6,10	434:14	565:19	297:21
562:2	292:13,16	435:22	<b>emailing</b>	<b>endorsement</b>
<b>elbow</b>	292:19,21	459:12,24	293:1 351:8	413:18
402:19,20	292:25	460:4,17	<b>emails</b>	<b>enfor-</b>
405:14	293:2,5,7	461:3,5	311:14	368:10
<b>elbowing</b>	293:11,15	462:6,21	312:1	<b>enforce</b>
402:13	293:18	462:23	337:8	361:18
<b>elected</b>	313:7,10	482:12	339:22	362:11
377:1	313:14,18	484:5	482:11	381:6,11
378:25	315:22	485:24	487:8	466:14
379:25	316:5	486:21	491:3	471:15
<b>electronic</b>	323:19,25	488:1	499:17	478:5
317:8,18	324:5,7,13	489:6,24	<b>emergency</b>	481:1,2,5
351:5,23	325:4,8,9	491:2,4,7	334:25	553:6
357:5	336:20	492:1	335:3,11	<b>enforced</b>
395:6	337:2	493:6,10	<b>emerging</b>	375:19
497:7	338:11,22	493:11,14	414:3	454:24
524:10	339:7,17	493:16	<b>Emily</b>	466:15
<b>Electron...</b>	341:25	495:3,7	413:19	512:9
291:6	342:14	504:18	507:23	559:3
<b>Electronics</b>	345:13,16	505:1,2,7	<b>emotional</b>	<b>enforcement</b>
289:9 294:7	346:1,4,6	505:18,18	370:5	361:8 368:8
374:14	346:8,12	507:21,22	505:15	368:10,17
385:6	346:20	508:4,22	<b>employed</b>	368:24
416:4	347:15,18	509:14	331:22	384:5
422:11	347:20	523:2	486:10	415:25
427:2	348:25	533:1	564:10	453:23
491:19	357:19,21	535:15,23	<b>employee</b>	475:14,15
496:25	358:10,18	535:23	407:21	477:24
499:6,24	358:24	536:1,2	412:10,12	502:15,16
501:22	359:14	537:20		

540:22	533:2	291:22	349:2	510:11
541:17	<b>equal</b>	292:3,5,12	394:14	<b>excluding</b>
554:12	431:9	292:15,18	<b>evolving</b>	391:20
555:3	<b>equipment</b>	292:20	454:19	<b>exclusively</b>
<b>enforcem...</b>	299:4,4	293:9,13	<b>exact</b>	327:15
360:17	327:5	294:6,7	338:21,22	437:20
<b>enforcing</b>	343:18	487:1	424:9	<b>excursion</b>
367:6 380:3	357:3	540:13	483:9	479:2
380:23	461:25	565:7	491:16,16	<b>excuse</b>
<b>engage</b>	470:15	566:4	540:24	381:16
427:3	<b>era</b>	567:8	<b>exactly</b>	396:24
<b>engaged</b>	326:5 357:9	<b>ev-</b>	296:4	467:1
353:4 418:9	399:25	332:16	297:14	474:7,7
444:16	<b>eradicate</b>	<b>evaluate</b>	310:24	<b>Executed</b>
465:18	421:2,3	515:7	342:13	567:20
<b>English</b>	<b>eradicating</b>	<b>evaluated</b>	347:3	<b>exhibit</b>
465:2	545:5	524:18,24	365:15	291:7
474:12	<b>errata</b>	<b>event</b>	369:2	296:24
<b>enjoy</b>	565:15,16	301:7,11	401:25	297:19
562:11	565:18,19	385:8	433:16	298:15
<b>entailed</b>	<b>especially</b>	415:25	436:20	300:16,17
485:18	416:2 418:6	433:7	469:23	300:19
<b>enter</b>	457:2	480:15	497:9	304:2
494:16	<b>ESQUIRE</b>	<b>events</b>	505:10	313:5,6
<b>Enterprises</b>	290:3,4,14	303:22	506:5	314:6
447:5,13	565:2	<b>eventually</b>	508:18	323:13,18
<b>entertai...</b>	<b>essentially</b>	310:17	515:18	324:3
318:25	316:19	402:17,21	525:19	336:21,25
<b>entice</b>	325:3	402:24	535:2	338:6,11
368:6	329:10	517:24	539:8,15	338:16
<b>entire</b>	343:18	<b>everybody</b>	544:4	339:15,15
381:20	421:6	322:14	555:15,17	341:21,23
467:11	441:24	342:14	556:21	345:14,17
<b>entirely</b>	443:22	356:18	557:16	345:25
327:20	506:10	367:3	560:8	346:2
<b>entities</b>	533:3	396:4	562:18	347:13,14
309:21	<b>establish</b>	399:4,5	<b>EXAMINATION</b>	357:18
311:4	494:24	405:5,25	291:2 295:7	371:19,20
331:23	546:19	406:10	<b>examined</b>	371:24
362:1	<b>established</b>	431:9,9,20	295:5	382:25
363:4	478:22	440:14	<b>example</b>	406:18,19
<b>entity</b>	521:14	446:14	400:10	406:23
317:17	<b>establis...</b>	458:2	478:18	407:6,12
318:14	323:6	504:6	<b>excited</b>	407:16
<b>environment</b>	364:18	510:14	499:10	408:16
343:5	<b>estate</b>	554:9	500:13	432:17
465:18	317:4,13	<b>evidence</b>	<b>excitement</b>	434:8
557:14	<b>et</b>	522:13	500:25	435:19
<b>epiphany</b>	291:18,20	<b>evolved</b>	<b>exclamation</b>	459:7,8
				460:7

489:3,5	524:15	529:12	478:5	354:12,16
490:25	<b>expanding</b>	<b>explain</b>	534:18,19	355:2
493:5	337:25	304:16	<b>extra</b>	360:2
503:25	397:4	343:15	437:8	361:22
504:14,15	401:14	351:24	<b>extrapol...</b>	364:15
504:17	<b>expansion</b>	386:2,12	508:22	383:11
507:17,20	291:11,13	389:14	<b>extrapol...</b>	384:16,16
508:22	291:15	436:7	311:25	387:4
509:10,11	324:18	444:13	<b>extreme</b>	388:21
518:7	337:15,18	450:25	546:22	391:12,13
522:19,25	338:2,17	471:8		396:8,20
527:15	342:25	523:21	<b>F</b>	406:17
528:8,15	343:3,12	<b>explained</b>	<b>f</b>	417:8
535:9,10	345:5	323:4	372:2	421:11
535:13	350:11,17	325:12	447:12	422:21
538:2	350:19	450:12	<b>face</b>	425:15
540:7	354:11,19	<b>explaining</b>	385:11,17	426:20
541:22	393:8	394:9 439:6	<b>facility</b>	427:11
542:1	395:5	454:3	526:19	428:22,24
547:16,16	396:9,10	<b>explanation</b>	534:2	428:25
550:3	396:21,22	330:5 469:1	<b>fact</b>	430:6
553:11	397:5,7,9	482:18	307:15	431:23
554:3	397:14	<b>explicitly</b>	312:15	444:3
556:1,7,8	398:1,3	423:19	374:2,20	446:20
558:23	404:8	<b>exploding</b>	377:3,19	455:16
<b>exhibits</b>	442:2	475:23	378:24	460:22
296:1,13	549:15	<b>expoliti...</b>	404:17	461:9
298:6,8	<b>expect</b>	431:25	405:14	464:3
314:14	335:24	<b>exposure</b>	449:23	468:9
342:5	336:12	416:5	454:14	469:3,18
343:13	428:3	<b>express</b>	464:10	490:12
345:8	<b>expectan...</b>	339:11	485:10	501:9,10
562:1,15	524:8	340:6	497:9	509:9
562:19,24	<b>expected</b>	<b>expressing</b>	503:1	511:19,22
563:6	505:11	381:19	519:22	511:25
<b>existed</b>	<b>expecting</b>	401:21	522:6	512:2,4,5
325:20	444:11	438:24	526:19	515:16
326:13	<b>expedite</b>	468:19	<b>fail</b>	522:3,4
<b>existing</b>	538:15	557:6	355:6	526:13
398:7,8	562:16	<b>expressly</b>	<b>failed</b>	538:20
404:3	<b>experience</b>	301:1	425:23,24	539:2,7
<b>expand</b>	357:3	<b>extended</b>	505:22	543:19
394:11	430:16	418:5	<b>fair</b>	545:12,17
403:1,12	445:24	<b>extent</b>	308:3	546:23
<b>expanded</b>	487:13	315:14	312:24	548:14
319:20	<b>expert</b>	380:24	322:9,11	555:13
324:21	521:8,22	394:4	331:7	557:21
343:20	522:3	426:22	336:7,8	558:14
404:2,3	<b>expertise</b>	438:12	337:21	<b>fairly</b>
469:5				388:8

<b>faith</b>	506:14	<b>felt</b>	419:17,22	355:7
444:18,19	<b>feature</b>	322:12	420:11,25	431:6
455:7	333:24	369:3	433:5,14	434:6
457:6,10	491:13	420:7,8	433:20	436:19,19
458:6	<b>Febru-</b>	466:13	435:14	445:25
494:11	461:7	502:12	450:3,10	454:20
<b>fall</b>	<b>February</b>	534:7	463:5	455:25
466:23	435:24	<b>FF</b>	511:2	456:14
<b>family</b>	436:17	295:17	512:12	492:12,19
317:23	460:9,25	<b>fi-</b>	513:16	495:7
399:17	461:7	417:19	514:17	523:15
413:10,10	462:6	<b>field</b>	515:1,12	530:2
418:3,5	<b>FEC's</b>	529:12	524:5	537:8
439:19,21	471:10	<b>Fife</b>	541:23	544:5,25
548:22,24	<b>FECs</b>	466:7	550:25	545:23
549:1	475:7	<b>fifth</b>	<b>filed</b>	546:18
<b>far</b>	<b>federal</b>	299:25,25	421:1	550:16
329:12	380:13	<b>fight</b>	422:24	565:14
343:8	<b>feedback</b>	524:1	424:2,5,11	<b>finding</b>
364:3,20	470:20	<b>fighting</b>	424:14	311:14
374:4	<b>feel</b>	402:13	460:25	<b>fine</b>
378:5	312:8	449:22	461:8	302:24
379:9	344:24	518:17	498:18	306:23
399:2	370:24	<b>figure</b>	516:15	309:16
417:18	387:24	297:11	<b>files</b>	323:10
444:8	417:12	306:14	304:10	334:18
457:3	427:15	308:21	417:6	359:23,25
481:18	450:19	335:14	423:8	370:25
491:12	457:1	353:9	487:16	372:16
498:12	466:11	358:23	<b>filing</b>	384:17
510:24	472:17	381:4	463:14	397:3
524:12	496:2	393:11	531:6	415:4
530:4	501:3,4,8	394:20	<b>fill</b>	421:23
531:1,14	538:13,14	396:1	421:9,10	427:10
557:7	544:21,23	414:1	<b>final</b>	432:1,7
<b>fast</b>	<b>feeling</b>	425:12	291:21	449:4
322:11,13	313:2 426:8	454:19	490:19	452:25
330:24	464:1,4	553:9	562:2,16	458:22
<b>fast-for...</b>	470:4	<b>figured</b>	562:21	460:15
354:8	524:14	369:21	<b>finally</b>	467:20
<b>faster</b>	<b>feelings</b>	<b>figuring</b>	494:8,20	480:11
329:24	324:12	454:25	<b>financial</b>	485:22
<b>favor</b>	357:10	<b>file</b>	317:16	486:18
336:5	<b>feels</b>	299:19	318:9,10	490:5,22
560:15	565:16	416:10,15	318:13	490:22
<b>FCRR</b>	<b>feet</b>	416:15	564:11	495:24
289:25	320:18	417:3,19	<b>find</b>	514:10
564:15	<b>fellow</b>	417:20	333:24	537:25
<b>fearful</b>	347:25	419:13,13	350:24,24	550:1
				559:23

<b>finish</b>	449:11	336:23,25	470:24	<b>forced</b>
330:1	452:3	337:11	471:23	394:5 513:6
432:14	456:22	338:23	472:25	513:14
476:10	458:19	341:22	474:21	<b>forces</b>
478:10	464:12	342:9	<b>Flags</b>	354:4
560:9	467:1	347:19	469:7	545:13,21
<b>finishing</b>	468:14	360:11	471:10	545:25
476:9	472:11	361:6	475:7	<b>foregoing</b>
<b>Finneran</b>	474:7	364:23,24	<b>flat</b>	564:3,4
290:3	477:11,13	389:20	501:2	567:12,19
294:19,19	479:5	400:10	<b>flexible</b>	<b>foreshad...</b>
296:3,9,14	480:7	403:5	449:15	402:18
296:16	492:22	417:23	<b>flip</b>	<b>forever</b>
300:14,20	493:3	419:9	336:3	490:23
308:11	504:3	430:19	<b>flow</b>	<b>forget</b>
328:22	511:23	447:8	425:4	388:11,19
329:3	512:3	449:20	<b>fluid</b>	<b>forgotten</b>
331:14	520:7,9,11	457:21	493:20	500:7
333:8,11	522:12	463:18	<b>fly</b>	<b>form</b>
334:12,19	527:24	491:20	385:10,17	553:5
334:21	528:2,5	493:10	<b>focus</b>	567:13
335:5,13	534:24	512:22	324:14	<b>formal</b>
351:9	547:8	513:4	<b>focusing</b>	382:14,20
352:5,9	555:18,24	516:25	432:17	382:22
371:6	556:4	518:11	<b>folks</b>	551:1,15
375:21	558:4,12	522:16	346:13	552:2
376:14	558:21	523:6	465:13	<b>format</b>
377:23	559:17,24	526:1	<b>follow</b>	562:21
378:10,19	560:4,14	530:13	304:17	<b>formed</b>
379:4,17	560:16	531:23	431:9,15	547:5
380:6	561:9,11	537:17	<b>follow-up</b>	<b>former</b>
381:1,14	561:16,19	548:22	337:8	541:8
381:16	561:22	554:1	502:12	<b>forth</b>
383:25	562:6,12	<b>fiscal</b>	560:11	310:15
403:14,20	563:1	493:22	<b>follow-ups</b>	462:17
404:9	565:2,9	<b>fit</b>	346:13	470:19
405:19	<b>fire</b>	347:6	<b>followed</b>	487:19
407:3,9	320:19	<b>five</b>	500:5	530:6
410:25	465:25	298:6	<b>following</b>	531:3
411:3	475:20	323:15	355:24	<b>Forty-five</b>
421:16	544:9	338:5	<b>follows</b>	458:18,19
422:2	<b>fireweed, '</b>	356:22	295:6	<b>forward</b>
428:9,11	368:2	371:3,4	493:16	353:25
431:2	<b>first</b>	420:16	<b>fooled</b>	354:8
432:11	295:3	496:19	321:21	364:16
434:2,4,9	299:14	501:16	<b>force</b>	413:25
434:13	300:8,24	503:3	497:16	424:20,21
438:12	322:16	544:20	500:18	424:22,23
439:11,13	324:5	<b>fix</b>	533:4	425:5,13
447:9,14	336:20,22	462:25		

435:25	411:1	325:9 344:6	337:15	321:22
457:10	427:14	348:1	345:5	332:18
505:16	500:11	356:11	478:5	337:14,18
540:12	<b>framework</b>	422:10	519:8	338:2,17
544:8	453:4	441:9	<b>Fun</b>	342:24
<b>forwarded</b>	<b>framing</b>	483:16	469:7	343:2,12
360:25	350:22	547:24	471:10	344:12
372:19	<b>Frank</b>	548:23,24	475:7	345:5
411:20	294:12	549:1	487:1	350:11
487:8	447:13	557:13	<b>function</b>	360:16,16
505:4	559:25	<b>friends</b>	423:20	360:18,18
553:21	<b>Franklin</b>	399:17,19	<b>functions</b>	360:20,21
556:17	496:20	405:11,12	474:12	361:18
<b>forwarding</b>	498:10	441:2	<b>funding</b>	362:23,23
487:21	500:5,7,10	454:3	337:15	362:24,24
<b>forwards</b>	501:17	455:2	342:24	363:6,7,10
359:15	503:5,7,19	478:16	345:5	364:17,19
482:12	540:23	501:1	<b>funneled</b>	366:5
487:17	541:18	<b>friendship</b>	481:22	368:7,18
<b>found</b>	<b>frankly</b>	416:8	<b>funny</b>	374:18
363:5 414:4	335:23	<b>front</b>	377:13	375:18
439:22,25	397:8	307:7	<b>further</b>	376:5
491:11,13	413:1	323:19	345:23	383:23
495:17	499:9	338:8	347:9	385:12
540:24	<b>fraternal</b>	371:19	366:2	390:23
<b>foundation</b>	320:6,6,9	495:6,9,12	463:11	396:9,10
312:10	320:12,24	495:17,20	480:19	396:12,21
<b>four</b>	321:1	496:15,17	541:15	396:22,25
296:17	343:6,21	504:16	544:24	397:4,11
298:6	344:16,23	556:7	545:14	398:15,19
313:4	356:8	<b>fruition</b>	<b>future</b>	398:20,22
331:18	394:2	501:9	345:23	399:13
334:22	395:7,13	<b>frustra-</b>	346:23	408:25
544:20	396:2	339:11	355:16	409:6,10
<b>fourth</b>	437:19	<b>frustrated</b>	368:3,5	416:20
299:22	<b>free</b>	366:7,9,12	385:8	425:19
410:5	472:17	366:25	545:2	438:25
<b>Fox</b>	561:24	368:15		456:5
373:13,18	<b>Friday</b>	427:12,16	<b>G</b>	461:22,24
373:22	289:19	427:18	<b>G</b>	466:23
374:9,11	491:4	531:25	294:1	468:22,22
375:5,9,16	540:20	557:19,24	<b>gamble</b>	470:7,8,11
375:24	565:1,11	558:17	398:12	470:13
376:3,25	<b>Friedman</b>	559:3	<b>gambling</b>	471:22
377:18	516:19	<b>frustration</b>	291:11,13	472:25
378:3,24	517:25	557:7 559:9	291:15	474:20
379:25	521:16,22	<b>frustrat...</b>	292:9	482:17
387:5	522:7	339:11	293:8,14	483:12
<b>frame</b>	<b>friend</b>	<b>full</b>	293:16	487:2
				489:7



497:25	393:3,16	<b>gaming</b>	527:7	385:4
512:10	394:5	291:24	529:20,25	390:1
540:12	400:9,12	292:7,22	530:1,2	429:24,24
541:12	400:13,13	293:1	531:7,16	450:17
548:2,8	401:3,22	309:25	532:17,20	451:19,22
551:6	402:2,8,23	310:7,8	533:4,16	451:25,25
554:15	403:8,11	317:8,18	534:1,14	452:6,13
<b>game</b>	404:1,20	318:2,16	534:21	452:16
357:7	421:4	343:2	536:10,19	461:12
372:11	436:14,15	351:23	536:22	463:25
374:15	438:10,17	366:13	538:12,22	541:8
393:25	438:25	368:9	539:6,14	554:16
455:16	439:6,7	372:23	541:5,9	556:25
466:22	440:4,8	374:22	543:5,10	558:1,19
470:2	441:4,22	395:6,10	543:12,22	<b>general's</b>
506:1	442:2,5	397:15,22	545:6,9,14	496:22
526:6	443:7,20	397:24	545:16	501:20
536:21	445:17	398:4,7	546:3,21	<b>generally</b>
537:17	456:16,19	408:23	547:3,5	310:10
<b>games</b>	457:11,25	409:12	550:18	332:19
318:21	458:1	414:6,13	551:5	337:7
319:2,5,6	466:17,20	415:18,23	553:18	358:17
319:19	466:22	433:10,12	554:17	361:23
320:21	468:24	435:4,12	555:10,13	372:17
322:10,17	469:6,14	440:20	557:24	378:18,21
323:1	469:15,21	453:23	558:16	379:21
324:18	469:23	454:8,12	<b>gaming-type</b>	380:12,16
332:24	470:5	454:12	351:6	397:18
337:14,23	477:7,9,9	459:17	<b>GARRETT</b>	446:10
337:25	478:21	462:1	290:15	459:19
338:18	482:17	467:10,16	<b>gas</b>	<b>generations</b>
343:1,7	494:5,5,12	477:23	374:15	440:11
344:11,16	494:24	478:19,23	387:14	<b>Gentlemen</b>
344:19	506:17	479:9,13	409:14	374:13
345:4	507:7,10	503:12	410:23	561:13
349:9	510:3	508:13	456:6	<b>getting</b>
350:1,6,21	519:22	509:19,25	529:6	334:22
354:11,20	528:25	510:7	531:8	352:14
356:14,16	530:17	511:9,20	533:20	364:4,25
385:5,7	533:12	512:14	<b>gather</b>	368:25
386:3,12	534:19,22	513:5,8,13	435:10	435:16
389:15,16	534:23	513:18	<b>GC</b>	475:21
389:17,21	536:14	515:7,9,24	538:14,15	505:23
389:22,25	545:24	517:23	540:24	506:12
389:25	547:7	523:20	<b>GE</b>	511:15
390:1,2,6	<b>Games '</b>	524:1,18	436:8	515:23
390:6,13	320:18	524:25	<b>general</b>	531:15
391:12,12	405:3	525:5,22	319:15,19	538:15
391:20	<b>Games 's</b>	526:4,17	320:17	<b>gimmick</b>
392:14	404:7	526:23		523:18

<b>give</b>	329:24	512:22	354:21	502:12,14
302:15	333:7	513:3	355:17	504:8,13
313:1	335:9	519:1,25	356:21	506:13
322:7	336:19	523:21	357:17	507:3
330:10	344:11	525:17	361:15,17	522:18
352:13	345:1	527:14	361:20	528:14
394:5	346:15,24	531:14	362:11	533:17
430:5	352:10,19	533:22	364:21	538:1
445:7	353:9	541:18	365:6,6,15	543:7
449:14	358:9	542:10,15	367:6,7	544:4,7
455:18	360:1	544:3,19	370:21	546:13
461:11	364:11	548:5	371:13,21	555:15,22
467:2	371:7	549:3,8,11	382:16	557:18
471:5	372:18	550:7,7	385:20	559:14,16
472:16	373:15	551:13	393:9	<b>goings-on</b>
477:6	377:19	555:20	414:13	340:6
502:21,24	382:24	556:4	416:19,20	<b>golf</b>
518:13,16	384:17,18	562:7,11	418:13	357:7
562:20	384:18,20	<b>goal</b>	419:22	<b>good</b>
<b>given</b>	384:20	502:5	420:11	329:24
305:1	400:6	541:16	421:24	335:10
310:19	401:24	<b>goals</b>	422:12	352:17
359:13	403:23	545:15,15	423:7,9,10	354:18
361:19	405:10	545:16	427:16	367:19
414:18	408:6,15	546:5	429:4	371:6
423:19	415:6,17	<b>goes</b>	431:7	416:6
429:25	417:16	306:15	433:22	427:10
468:12	420:1	315:25	434:20	430:24
470:7	432:17	329:12	435:3	444:18,19
525:18	433:13	420:4	441:2,10	455:6
564:5	434:15	431:13	442:22,24	456:9
<b>giving</b>	444:22	461:11	442:24	457:6,10
446:19	446:1	<b>going</b>	444:12,20	458:6,23
453:2	447:8,15	295:23	445:2	471:8
461:18	449:10	296:15,17	449:7	493:19,21
536:18	450:24	306:4	450:8	494:11
<b>glad</b>	453:22	308:20	457:4	496:16
529:2	457:10	311:13	459:1,7	501:11
<b>gladly</b>	459:23	312:11	465:20	504:5
513:9,15	461:20	313:6	471:17	505:20
<b>Glitch</b>	465:7	319:13,16	472:20	507:8
460:14	475:12	320:17	475:20	509:4,6
<b>go</b>	477:21	321:8,17	478:4,6,10	524:22
296:16	484:21	329:22	481:18	532:11,11
316:4	495:2,4,24	330:2,16	484:7	556:4
320:19	495:25	334:15	492:12	557:12
322:15	496:3,10	335:14,15	495:21	561:3
324:7	503:7,20	344:1,5	498:21	<b>Google</b>
326:15	505:5	349:11	499:10	388:9
	511:4	353:3,9,25	500:14	<b>Gor-</b>

536:8	373:10	476:1	389:23	355:25
<b>Gorth-</b>	383:2,4,10	<b>guess</b>	440:9,16	356:7
536:8	536:4,13	299:18	443:11	390:15
<b>Gorthaus</b>	536:14	300:7	451:13,18	409:19,20
536:8	<b>Gray's</b>	309:9	458:23	414:21
<b>gosh</b>	389:9	319:7		417:1
346:21	<b>great</b>	327:23	<b>H</b>	420:5
370:7	376:22	351:15,19	<b>H</b>	425:9,11
<b>Gotcha</b>	403:11	360:2,23	291:5	433:4,17
322:15	419:8,8	362:1,19	<b>ha</b>	436:5
413:3	504:4	366:11	463:1,1,1	438:4
414:23	<b>greater</b>	373:4	470:25,25	439:10,16
422:16	298:10	390:2	470:25	507:5
434:13	<b>Grewach</b>	397:12	<b>Ha-</b>	537:18
537:4	541:8	427:11	411:15	553:25
<b>gotten</b>	<b>Grothaus</b>	428:1	<b>hairs</b>	<b>happening</b>
349:4 362:5	536:9,15	432:18	546:16	300:12
<b>governance</b>	538:12	438:6	<b>half</b>	301:15
379:22	<b>ground</b>	446:20	349:25	346:16
<b>governed</b>	544:5,25	452:24	467:24	363:14
362:1	546:18,20	453:16	548:1	364:4,5
<b>governor</b>	<b>grounds</b>	456:9	<b>Hall</b>	367:12
395:12	446:8	461:11	527:4	394:24
416:3,9	455:20,21	485:22	<b>halls</b>	417:1
422:9,12	<b>group</b>	486:19	479:2 480:5	423:14
422:19	348:16	487:19	<b>handle</b>	445:4
423:2	372:10	490:6	455:3	481:25
426:13	417:22	492:4	<b>hang</b>	482:9
428:16	419:11,15	510:15	542:9	526:12
493:22	453:17	518:25	<b>hanging</b>	537:9,20
<b>governor's</b>	459:13	548:25	432:25	<b>happens</b>
342:15,16	470:20	553:3,22	434:12	301:12
342:17,20	483:20	556:23	<b>haphazard</b>	370:4
389:17	487:21	557:15	343:2,2	<b>happenst...</b>
392:13	505:8	<b>guessing</b>	<b>happen</b>	420:23
416:2,7	508:5	342:13,15	305:5 344:2	<b>happy</b>
423:7	509:22	342:19	354:21	330:24
479:12	510:23	490:3	364:5	386:4,13
<b>governor...</b>	511:5	<b>guidance</b>	365:5	464:20
342:18	512:24	330:22	368:11	561:6
<b>Grace</b>	513:20	467:15	369:14	<b>hard</b>
290:4	514:2	<b>guy</b>	509:24	302:9
294:20	<b>group's</b>	376:17	522:5	319:16
<b>graduated</b>	494:4	431:7,8	<b>happened</b>	392:6
377:21	<b>groups</b>	534:12	304:4	429:3
<b>GRAVES</b>	543:3	557:12	307:19	464:7,16
290:15	<b>grow</b>	<b>guys</b>	308:8,8	491:17,19
<b>gray</b>	484:21	333:14	309:8	<b>harm</b>
293:4	<b>growth</b>	335:15	321:9	328:12
		353:13		

<b>harmed</b>	348:16	500:20	<b>help</b>	493:23
451:16	367:15,21	<b>header</b>	304:24	<b>helps</b>
<b>harming</b>	462:6	307:3 383:6	314:11	437:5 478:7
403:8	<b>harsh</b>	<b>hear</b>	315:13	<b>Hemphill</b>
<b>harmless</b>	428:7	330:18	324:1	543:23
465:7,11	<b>Harvard</b>	333:8,14	328:9	<b>hereinafter</b>
466:22	521:23	333:15	330:22	374:14
475:12	<b>Harvey</b>	335:6	349:2	<b>Herschend</b>
477:3,8,10	491:4,8	337:12	350:15	350:8 353:1
477:21	<b>hatching</b>	345:2	353:14	353:16
<b>Harn-</b>	526:1	351:10	358:19,25	357:12
507:21	<b>hate</b>	352:6	363:16	465:16
<b>Harness</b>	426:2	353:23	368:6	<b>Herschen...</b>
291:18,20	<b>have-not</b>	365:25	382:14	349:15
291:22	343:6	501:6,6	391:1	<b>Hershend</b>
292:5,15	<b>Havey</b>	558:6	403:2	349:18,19
292:18,20	291:25	559:11,22	404:1,1	<b>hesitate</b>
325:10	292:8,10	<b>heard</b>	406:11	375:1
326:10,11	293:5	300:16	436:18,21	<b>hesitated</b>
326:16,21	298:24	311:20	444:21	428:13
328:1,17	301:10	330:17	445:24	<b>hey</b>
331:8	302:6	335:7	455:2	366:19
335:25	305:13	351:12	458:9,13	414:4,12
336:12	308:5	354:1	458:13	440:16
347:15	309:13	366:1	462:20	441:2
348:20	406:24	406:16	465:3	443:11
357:22	407:17,21	450:16	467:18	455:7
358:12	408:17	467:6	478:5	531:12
360:12	410:21	476:15	489:4	<b>higher</b>
371:25	411:15	484:13	494:4,12	356:10
372:21	432:21	522:16	494:18	452:21
384:22	489:6	526:25	507:7	<b>highway</b>
385:21	529:22	527:1	508:9	295:17
386:16	530:16	530:13	509:24	310:2
389:1	538:6	547:1,11	513:19	368:24
397:17	<b>Havey's</b>	559:25	524:1,3	<b>hint</b>
415:14	408:1	562:7	553:6	486:12
418:6	411:20	<b>hearing</b>	555:3,13	<b>hire</b>
459:13,24	<b>hazard</b>	476:14,16	<b>helped</b>	429:1,6,7
460:9	485:20	<b>hearsay</b>	405:25	<b>hired</b>
462:24	<b>head</b>	547:9	464:21	430:19
482:11,14	345:21	<b>heart</b>	<b>helpful</b>	478:12
485:10	388:20	431:13	309:6	<b>hires</b>
487:6,25	408:11,23	534:17	313:13	336:4
488:1	420:3	<b>held</b>	419:23	<b>history</b>
504:18	478:14	294:11	445:5	430:17
507:23	486:15	<b>Hello</b>	494:15	<b>Hmm</b>
509:15	537:16	333:8 436:3	523:16	450:6
542:3	<b>headed</b>	523:13	<b>helping</b>	<b>hold</b>
<b>Harness's</b>			372:7,8	

308:11,11	468:8	526:4	289:25	<b>ignored</b>
320:18	478:8	<b>Howard</b>	564:15	337:16
328:22	523:13	388:16	<b>idea</b>	<b>II</b>
334:13,24	544:14	408:21	411:4	289:15
375:21,21	545:3	409:5,11	480:23	<b>III</b>
375:21	561:7	409:22	525:18	289:15
379:4	<b>hoped</b>	414:16	536:21	<b>illegal</b>
407:4	497:11	434:25	544:21,24	291:24
408:12	501:11,25	517:12	549:20	292:7
474:8	<b>hopefully</b>	526:2,3,9	<b>identi--</b>	332:18
477:13,13	315:13	526:11	504:15	337:18
511:13	328:8	527:2	<b>identifi...</b>	338:1
520:7,9,9	330:21	529:5,23	298:16	363:6
527:5,23	334:23	530:15	300:19	364:17
527:24	353:18	531:4,11	313:6	366:5
560:5	393:18	533:3,19	315:6	368:7,18
<b>holder</b>	441:20	534:12,17	323:14	372:23
351:21	445:5	536:20	338:7,11	374:18
<b>holders</b>	458:4	537:22	339:15	389:15,21
361:19	512:16	538:22	341:21,23	390:10,25
<b>holding</b>	527:9	539:3,22	347:14	391:4,16
317:13	544:2	550:19	357:19	391:23
359:24	560:11	<b>Howard's</b>	371:20,25	392:1,1,21
<b>Holmes</b>	<b>hopes</b>	388:15	382:25	395:9
294:12	433:22	534:25	406:20,23	397:22
<b>home</b>	<b>hoping</b>	539:23	407:16	398:14,20
537:2	351:24	<b>hunt</b>	435:19	398:21
<b>honest</b>	506:22	492:8	459:8	399:12
365:12	546:12	<b>hurdles</b>	489:5	400:15
<b>honestly</b>	<b>hotline</b>	397:20	490:25	401:4,7,14
306:2,13,21	433:12	<b>hurry</b>	493:6	401:23
308:1	<b>Hough</b>	562:10	504:14,17	403:8
309:11	505:21	<b>hurt</b>	507:18	404:19
400:8	506:3,4	355:17	509:11	405:4
414:20	<b>hour</b>	<b>hurting</b>	518:8	408:25
416:22,25	492:23	477:1,2	522:19	409:6,9,24
457:1	<b>hours</b>	<b>hurts</b>	535:10,12	410:7,10
486:7	560:24	323:6,7	538:2	410:16
<b>honor</b>	<b>house</b>	<b>hypothet...</b>	541:25	416:20
450:14	292:21	391:14	547:16	421:3
<b>hoodwink</b>	320:22	430:13,15	550:2	423:19
321:5	339:7	<b>hypothet...</b>	553:11,12	435:17
<b>hoodwinked</b>	340:1,3,25	336:18	556:8	438:10,25
320:21	345:17		<b>identified</b>	439:7
321:6,20	424:15	<b>I</b>	332:20	440:18,23
<b>hope</b>	425:7	<b>I-44</b>	522:19	442:5
336:2	508:20	496:19	<b>identify</b>	443:12
353:24	509:18	501:16	357:20	444:2
428:2,4,5	525:14	<b>IA</b>	459:11	445:9,17
			540:9	453:19

454:10,14	377:9	<b>incorpor...</b>	495:1	530:16
454:23	<b>important</b>	294:6,21	507:9	<b>infringed</b>
457:9	302:4	545:4	545:9	524:9
459:17	353:17	565:10	549:14	<b>inhouse</b>
461:24	370:19	<b>incorrect</b>	<b>industry's</b>	300:10
470:6,13	433:3	475:4	425:13	<b>initia-</b>
475:23	<b>inadvert...</b>	<b>increase</b>	<b>ineffective</b>	387:8
480:3	444:22	416:19	430:1,23	<b>initial</b>
482:17	<b>inapprop...</b>	424:6	<b>influence</b>	296:1
497:25	324:18	<b>Increasing</b>	369:12	538:21
503:21	<b>incident</b>	426:4	417:10	<b>initially</b>
510:3,8	436:4	<b>incredible</b>	419:11,21	352:7
511:11	<b>include</b>	440:13	419:25	409:19
512:10,17	303:8	<b>independ...</b>	426:23	<b>inject</b>
531:6	309:21	517:3 526:5	483:16	355:8
533:5	464:10	541:10	<b>info</b>	<b>input</b>
534:5,6,15	468:23	<b>indicate</b>	292:4	419:16
534:19,23	469:5,20	324:15	<b>inform</b>	420:10
540:13	473:6	359:20	341:1	<b>inquire</b>
541:12	474:5,5	544:24	<b>information</b>	513:23
545:5	476:11	<b>indicated</b>	300:25	<b>inserted</b>
548:2	477:8	502:21	301:10	301:14
551:2,16	482:12	<b>indicates</b>	359:6,16	<b>inside</b>
554:15	524:15	410:2	360:24	480:5
558:2,20	550:12	451:21	387:19	<b>inspected</b>
<b>imagine</b>	560:13	<b>indicating</b>	401:8	538:15
444:10	<b>included</b>	435:8	409:4	540:1
<b>immoral</b>	301:4 303:2	<b>individu...</b>	414:4,11	541:11
398:23	305:2	315:7	414:15	554:24
<b>impact</b>	318:4	<b>individuals</b>	415:20,24	<b>inspection</b>
328:5,20	333:3	493:15	416:1	515:24
331:13	369:19	<b>industrial</b>	433:15	516:5
332:10	476:22	317:5	435:25	522:8
335:20,22	481:19	<b>industries</b>	457:3	537:18
426:23	482:6	545:2	460:1	539:1
525:16	483:4,6,22	<b>industry</b>	478:15	<b>installed</b>
<b>impacted</b>	488:8,23	343:3	485:14	374:15
387:13	536:14	359:13	487:21	539:15
404:19	<b>includes</b>	394:21	530:6	<b>installing</b>
405:3	297:4	399:16,21	531:2	357:4
470:3	488:15	400:4,24	536:5,7,15	<b>instance</b>
<b>impacting</b>	<b>including</b>	401:1,2,11	554:17	307:3
322:2	344:14	403:24	<b>informed</b>	400:11
<b>impediment</b>	425:20	404:12,15	353:18	448:15
546:4	446:3	406:1	410:14	<b>instanta...</b>
<b>implication</b>	461:24	414:2	457:7,7	421:5
405:7	470:14	426:24	510:4	<b>instructed</b>
473:10	474:18	458:13	511:7	308:22
<b>implying</b>	501:16	494:17	512:25	529:24

<b>instruction</b>	447:7,21	497:6	<b>issued</b>	338:12
491:23	449:20	499:23	440:20	<b>Jeff</b>
<b>integral</b>	450:2,13	501:21	<b>it'll</b>	346:24
351:2,18	451:1,11	503:4,11	518:22	369:20
<b>intend</b>	452:2	510:1,21	<b>item</b>	505:13
515:8	510:2,22	<b>investig...</b>	311:18	<b>Jefferson</b>
<b>intended</b>	511:1	522:1 541:1	506:8,16	346:14
501:8	516:10,12	554:14	<b>items</b>	373:2
521:25	524:6	<b>investig...</b>	311:16	392:20
<b>intention</b>	<b>interfering</b>	553:17	<hr/> <b>J</b> <hr/>	536:16
497:10	442:20	<b>investig...</b>	<b>J</b>	<b>Jim</b>
499:24	<b>interim</b>	503:11	290:14	308:11
501:14	292:21	<b>invitation</b>	383:1,4	351:10
521:21	509:18	386:17	<b>James</b>	352:10
532:19	<b>internal</b>	<b>inviting</b>	289:18	353:6
<b>intents</b>	315:10	437:10	291:2	372:1
316:14	<b>interpret</b>	<b>involve</b>	292:2,24	375:23
<b>interact</b>	381:6	332:3 409:6	294:3	379:6
519:17	382:15	526:2	295:2	381:3,14
<b>interact...</b>	401:6	<b>involved</b>	387:11,13	381:14,14
347:10	485:4	340:10	388:17	403:16
392:15	488:12	350:5,13	408:22	406:25
<b>interest</b>	<b>interpre...</b>	356:23	433:5	407:18,18
317:16	444:20	357:1	503:21	415:8
318:9,10	<b>interpreted</b>	368:18	517:23	421:16
318:13	376:6	372:10	529:5,17	431:4
399:11	484:18	394:22	537:22	432:11
427:4	<b>interpre...</b>	399:18	565:6	434:17
564:11	380:2,23	403:25	566:2	439:14
<b>interested</b>	381:10	409:13	567:6,11	448:8
301:25	<b>interrupt</b>	440:5	<b>January</b>	458:20
331:10	364:14	446:25	406:25	464:14
530:17	555:19	449:21	407:18	467:1
548:7	<b>intervene</b>	454:20	408:18	477:13
<b>interesting</b>	511:20	499:16	409:19,21	483:21
439:12	512:15	513:6,9,14	409:25	489:6
523:16	<b>intimating</b>	513:15	411:11,16	491:9
<b>interests</b>	512:7	<b>involving</b>	412:13	496:6,13
322:5 327:3	<b>intimidate</b>	332:6	415:10	507:22
328:6	442:15,17	<b>iPhone</b>	422:7	535:1
400:4	443:3	488:9	432:21	549:19
427:4	<b>introduce</b>	<b>irrelevant</b>	531:4,25	556:11
438:8	423:17	365:4	565:1	560:14
545:25	<b>inundating</b>	<b>issue</b>	<b>Jason</b>	<b>Jim's</b>
<b>interfered</b>	456:6	324:17	339:3	482:18
448:16	<b>inventories</b>	333:12	345:17,24	487:3
449:24	422:14	374:19	<b>jasonchi...</b>	505:9
<b>interfer...</b>	<b>investigate</b>	479:25	323:20	<b>job</b>
446:4,17,25	496:24	506:9,16		289:22
				380:20

431:18	492:4	367:14,21	<b>key</b>	<b>Kleinsorge</b>
453:12,16	519:14	371:25	416:13	293:2
565:6	526:22	372:19,21	<b>kids</b>	482:21,24
<b>Joe</b>	536:10	373:7	466:3	486:3
436:5	537:1,2,13	384:21	<b>kill</b>	535:16
439:20	538:6	385:21	493:20	536:12
440:2,12	540:11	386:16,19	508:10,16	<b>knew</b>
441:1	547:18	388:25	<b>kind</b>	344:3
<b>John</b>	549:5,7	389:1	297:8	353:23
413:8,8,9	550:13,16	390:4	322:13	356:20
<b>join</b>	553:13	397:17	326:2,4	365:14
354:14	554:23	415:14	327:2	422:11
525:6	556:12	418:6	329:25	435:15
545:13,21	<b>jump</b>	429:18,23	341:2,8	489:17
<b>joining</b>	328:23	459:12,24	343:14	506:23
545:24	366:7	460:9,11	350:22	520:1,2,6
<b>joke</b>	555:13	460:20	352:14	520:15,18
377:11,15	<b>juncture</b>	462:24	357:4	520:25
<b>Jon</b>	321:12	482:11,14	362:8	529:12,18
389:13	<b>June</b>	483:20	390:7,24	551:10
<b>Jonathan</b>	508:1	485:10	393:8,19	<b>know</b>
372:2	509:16	487:6,24	399:20	296:5
385:22	512:19	488:1	402:18	297:17,17
<b>Jonathon</b>	526:7	504:18	418:1,4	297:20
372:5	542:17	507:21,22	431:13	299:8,13
<b>Jones</b>	<b>jurisdic...</b>	509:15	432:24	300:11,24
291:16	380:5,24	542:3	435:14	301:3,6,7
342:12	554:10	<b>Kathi's</b>	440:25	301:17
344:10		347:18,20	447:8,17	302:1,12
345:11	<b>K</b>	348:14	463:25	302:19,22
<b>Joseph</b>	<b>K-i-n-n-e-y</b>	350:22	502:2	303:17,21
348:5	326:9	373:4	506:12	303:23,24
<b>Joshua</b>	<b>Kansas</b>	389:5	519:1	303:25
486:5,15,20	290:17	<b>keep</b>	544:12	304:8,17
486:25	413:16	308:22,22	<b>kinds</b>	305:23,25
487:20	<b>Kathi</b>	308:23,23	534:20	306:2,4,5
<b>joyous</b>	325:10	327:1,7	<b>Kinney</b>	306:12,21
561:8	326:10,11	334:14	326:8,8,9	306:24
<b>ju-</b>	326:16,20	335:15	356:11	307:14,15
341:7	328:1,17	355:11	357:23	307:16,21
<b>judging</b>	331:8,10	399:15	411:23	308:1,19
401:6	335:25	421:24	413:20	308:25
<b>judgment</b>	336:12	429:16	435:23	309:7,11
430:21	347:15	464:6	439:20	310:15,20
<b>jukebox</b>	348:15,20	<b>keeps</b>	504:19	310:23
357:6	349:11	334:14	<b>Kirksville</b>	311:1,5,6
529:10	357:22	<b>kept</b>	373:10	311:7,16
<b>July</b>	358:12	304:14,18	<b>Kistner</b>	311:25
440:23	359:8,15	466:11	524:5	313:2,14
	360:12	491:19		314:22



315:15	376:4, 7, 8	431:24, 25	489:15, 16	557:11, 16
317:18	376:9	432:2, 13	489:22	557:22
318:11, 12	377:2, 22	433:14	490:3, 11	558:15
320:10, 12	378:3, 5, 9	435:19	491:13	562:20
323:14	378:15	436:20	492:15, 17	<b>knowing</b>
326:5	379:22	437:22	492:17, 22	401:5
328:4, 7, 16	380:10	438:14	493:17	422:18
329:9	382:13, 17	440:3, 7, 14	494:12	<b>knowledge</b>
331:11	383:4	442:22, 23	495:19	326:19
332:6	384:10, 16	444:10, 13	496:4, 11	364:6
333:4, 5	386:16, 19	446:21	498:24	425:24, 25
334:7, 21	386:19	448:12	499:1, 2, 8	450:20
335:23	387:17	451:17	499:22	500:1
336:18, 22	388:7, 12	452:5, 10	500:3, 4, 8	<b>known</b>
337:4	388:24, 25	452:11, 23	500:12	320:12
338:7	389:3, 6	453:12, 17	507:18	326:12
340:2	392:6, 14	453:25	509:12	348:8
341:1, 9	392:23	454:5, 8, 16	510:8	429:18
345:22	394:15	455:2, 3	512:7	454:10
346:7, 15	395:6, 9	456:13, 15	515:16	548:24
347:1, 3, 4	397:8, 19	457:24	518:21	<b>knows</b>
348:24	397:25	458:7	519:13	411:6
349:9	398:23	459:9, 25	520:19	429:20
351:3, 5, 12	400:10, 23	460:3, 13	521:6, 11	453:24
351:17	401:9, 18	462:9, 12	521:12	556:22
353:5, 14	403:5, 6	463:6, 8, 12	522:5, 14	557:13
354:3, 10	404:6	463:13	522:15	
357:4, 5, 6	406:20	464:6, 14	527:20	<b>L</b>
357:7	409:4, 9, 13	466:8, 12	528:12, 20	<b>lack</b>
358:14, 14	410:21	466:21, 25	531:14	366:7
358:17	411:8	467:5, 18	535:1, 11	368:16
359:1, 18	412:22, 22	467:25	536:24	475:14, 15
360:4, 24	412:24	468:20	537:6, 8, 10	557:8, 24
361:12, 16	413:18	469:5, 12	537:10, 16	558:17
361:24, 25	414:17, 19	469:19, 24	537:19, 23	<b>Laclede</b>
362:7, 17	414:20, 24	470:4, 4, 6	537:23	496:20
363:6, 15	415:3, 13	470:8	538:3	498:9, 25
365:14	417:10, 14	471:6	539:8, 8	501:17
366:3, 4, 12	418:5, 7, 8	474:10	541:23	<b>Lake</b>
366:13, 21	419:21, 25	475:9	544:4	352:22
369:2, 15	420:2, 10	476:16, 18	546:1, 13	<b>lakes</b>
370:8, 9, 11	421:12, 24	478:9, 9, 10	546:17	352:21
370:13, 15	423:22	479:22	547:10	<b>language</b>
370:17, 18	424:4, 10	480:2	548:3, 17	345:6
371:8	425:6, 11	484:2	549:23	419:25
372:5, 8, 17	425:25	486:5, 15	551:4	459:20
373:6	428:24	487:6, 7, 12	552:12, 15	464:9
374:4, 5, 7	429:5, 20	487:15	552:22	465:1, 4
374:8, 17	429:20	488:20	555:7, 8	468:11, 21
375:17	431:4, 6, 18	489:11, 14	556:20, 21	

469:4,19	441:23	512:13	<b>learning</b>	446:20
470:22	445:18	515:12	416:24	452:4,7,12
471:6,8,21	446:4,5,22	<b>lawyer</b>	<b>leave</b>	453:7,19
472:24	450:13,14	376:18	421:7	454:22
473:16	451:1,5,19	381:23	422:13	455:9,20
474:12,17	451:23	383:7,17	561:14	455:21
481:4,5,6	455:11	385:16	<b>leaves</b>	456:1,14
481:13	461:23	410:9	420:22	457:6,8
482:5,16	463:1,3,5	428:4,5	423:14	464:13
483:18	463:16	450:18	<b>leaving</b>	467:3
484:6,12	464:4,9,11	<b>lawyers</b>	420:13,17	468:15
485:9,11	464:20	384:5	420:22	471:24
487:3	466:5,13	478:12	<b>Lebanon</b>	473:2
488:4,7,15	466:24	514:2,4	499:1	474:22
488:25	470:12,25	516:8	<b>led</b>	475:8,9
489:12,20	471:15,23	<b>lax</b>	367:18	479:6
505:23,24	473:1	453:24	<b>left</b>	480:3,8
506:1,5,6	474:21	<b>lay</b>	297:20	510:24
506:18	475:22	312:10	387:20	511:6,16
<b>large</b>	478:5	<b>lead</b>	388:12	514:16
416:4	480:19	497:13	533:20	527:6
<b>larger</b>	481:1,2,11	550:17,17	561:15,16	533:24
470:15	481:11,16	<b>leader</b>	<b>Legacy</b>	550:17
<b>late</b>	482:6,6,13	326:4,6	492:15	<b>legality</b>
298:18	482:23	399:24	519:23,24	442:1
361:7	483:4,7,10	455:1	<b>legal</b>	524:18,24
387:8	489:7	<b>leadership</b>	308:16,21	525:23
403:6	497:24	420:23	319:11	538:16
<b>law</b>	502:15	422:7,13	374:20	<b>legally</b>
292:9 302:2	511:19	422:17,25	375:7,22	393:3
360:17	512:5,9	423:10	378:11	<b>Legion</b>
368:8,10	518:15	<b>leading</b>	381:2	320:11
368:17,24	541:17	491:19	383:20,20	<b>legislation</b>
375:7	553:6	497:5	383:22,24	328:4,19
376:11,19	554:12	<b>leaf</b>	384:1	332:3,6,10
376:20	555:3	351:20	386:3,13	332:17
377:3,19	559:3	<b>league</b>	386:18	333:3,23
377:21	<b>lawmaking</b>	327:4,24	390:18	334:4,8
378:8	426:23	331:13	394:18,23	335:19
381:25	<b>laws</b>	335:23	397:6,24	336:10
382:7	361:9	<b>leagues</b>	398:3,8,12	340:5
383:10,22	375:19	327:16,21	427:4	394:17
384:5	380:3,23	327:22	438:13	425:4
385:18	381:6,11	<b>learn</b>	439:8	431:19,19
421:1	396:12,25	418:1,11	440:6,16	431:22
425:22	425:3,20	485:18	441:3,23	544:10
426:3	470:8	534:13	443:19,21	<b>legislative</b>
431:9	498:1	<b>learned</b>	444:13,25	292:13,17
438:11	<b>lawsuit</b>	470:7	446:8,18	324:23
439:1	329:14			337:17

350:23	535:8	363:5	505:6	307:18
354:18	542:10	529:18,19	506:8,16	308:9
401:15	559:11,13	530:3	509:18	515:21
422:8	559:13	<b>license-...</b>	522:24	525:6
425:22	<b>letter</b>	362:1	527:18	<b>little</b>
471:21	293:1,6	<b>licensed</b>	528:10,18	302:16
472:24	324:11	479:2	555:19	329:24
<b>legislature</b>	341:13	525:21	556:10	330:23
322:11	349:14,22	<b>licensee</b>	566:7,11	342:8
337:13	363:13,20	360:16,22	566:15,19	351:7
342:23	365:11	363:11	566:23	353:11
345:3	373:9	554:11	<b>lines</b>	359:11
353:15	383:1,6,11	<b>licensees</b>	337:11	379:7
422:18	383:13	362:22	389:6	392:6
428:16	387:22	366:4	420:13,16	401:19
506:10,12	414:7	<b>licensing</b>	434:17	410:4
<b>legislat...</b>	419:18	319:11	445:6	420:21
416:2	420:8	<b>life</b>	544:13	445:21
<b>LEIGHTON</b>	440:21	427:24	<b>ling</b>	448:18
290:5 565:2	446:13	<b>liked</b>	474:12	449:14
<b>length</b>	454:9,12	354:21	<b>link</b>	450:22
560:20	454:13	488:3,25	433:13	494:2
<b>Leonardo</b>	455:19	<b>limited</b>	<b>links</b>	501:4
376:21	523:14,17	327:15,20	553:4	507:2
<b>lesser</b>	523:22,25	554:11	<b>liquor</b>	515:16
394:4	525:18	<b>Linc-</b>	360:6	536:25
<b>let's</b>	538:7,14	506:3	361:19,25	<b>live</b>
295:24	539:10	<b>Lincoln</b>	366:16,17	552:11
310:4	541:5	505:21	<b>liquor-b...</b>	<b>lives</b>
323:23,23	544:2	506:3,4	319:22	502:23
323:24	550:16,17	<b>line</b>	320:2	<b>LLC</b>
346:6	550:20	338:15,16	321:1	289:9
347:19	551:15	338:24	<b>list</b>	290:15
353:25	557:23	339:20	296:8	294:7
354:14	558:15	342:4	298:15	316:8
371:2,2	565:10	368:1	303:9,15	317:1
372:17	<b>letters</b>	372:22	313:4	374:14
373:16	344:8	379:7	323:16	565:7
406:16	384:25	386:7,8,10	338:5	566:4
407:11	401:13	393:20	339:16	567:8
432:3	<b>letting</b>	407:7	<b>listening</b>	<b>LLP</b>
480:25	491:13	410:5	532:3	290:5 565:2
482:10	551:4	421:2	<b>literally</b>	<b>lob-</b>
492:2	<b>level</b>	450:16,18	312:9	431:17
495:2,4	312:19	453:11	313:25	543:12
504:1	425:22	459:16	422:17	<b>lobbied</b>
510:17	452:21	461:4,5	430:11	355:23
521:15	<b>license</b>	486:24	<b>litigation</b>	<b>lobby</b>
527:7,14	360:19	491:5	305:17	322:4 336:5
	361:19			

336:13	368:24	302:9,10,11	313:12,25	328:18
356:5,14	437:12	302:13,16	314:14	336:21
<b>lobbying</b>	457:12	302:19	315:17	355:19
427:13	497:15	303:1,6,8	335:13	358:21
547:2	526:11	303:20	338:4	407:11
<b>lobbyist</b>	539:10	306:1,3,5	347:18	432:15
325:10	554:12	306:9,16	357:17	434:14
326:11,17	<b>located</b>	306:22,24	373:15	460:3
326:23	294:14	307:5,9,10	393:20	486:14
327:25	295:16	307:24	400:3	489:18
331:22	348:4	309:2	408:7	491:9,11
335:25	374:22	<b>logic</b>	440:2	492:18
336:5	552:8	445:2	462:20	511:18
348:13,19	<b>location</b>	<b>logs</b>	464:17	545:19,20
349:22	299:4,5	303:3	482:10	<b>lookout</b>
350:8	300:5	<b>long</b>	494:22	327:2
360:12	305:7	326:4,6	499:22	<b>looks</b>
373:2	320:6	329:7,22	508:3	297:8
418:7	322:19	329:25	509:21	298:23
426:15,18	323:3	332:5	515:6	299:23
427:3	410:6,15	348:8	519:1	302:11,21
428:3,17	410:18,22	351:3,21	521:25	304:1
429:2,13	439:24	352:13	523:12	306:1,16
430:3,6,8	525:21	370:22	527:8,18	306:22
430:12,15	531:7	376:18	528:15	313:10
430:17,19	540:1	387:4	535:8	339:24
430:23,24	<b>locations</b>	397:5	540:16	340:1,2
431:1	321:2	398:10	551:13	357:24
467:12	324:22	404:4	552:17	361:14
543:2,5,12	365:17	408:7,9,10	<b>look-</b>	411:19
547:4,4	397:21	408:11,11	546:18	414:5
<b>lobbyists</b>	421:7	448:20	<b>looked</b>	459:22
310:5	471:14	449:9	302:9,17	461:10,17
348:22	472:2	495:3,7,8	354:10,17	485:23
373:5	473:8	504:2	400:10	487:7,12
401:12	474:25	508:21	411:15	489:10,19
426:22	476:13	515:21	478:24	505:3
427:20,24	480:21	518:13,20	489:15	510:10
427:25	481:8	556:2	497:24	536:11
428:15	494:5	<b>longer</b>	530:25	541:14
430:2	510:2,23	383:13	531:3	549:17
431:17	511:2	408:12	553:21	557:19
480:18	524:7,10	458:18	<b>looking</b>	562:6
543:10	525:20	496:12	296:21	<b>lose</b>
544:11	529:15	<b>look</b>	298:21	333:18
<b>local</b>	552:24	297:6 298:7	300:7	<b>losing</b>
340:13	<b>lodge</b>	299:7	302:14	334:14
341:16	320:10	306:8	314:6,22	525:12
360:16	534:20	311:6	315:5,16	<b>loss</b>
368:8,9,17	<b>log</b>	312:7	315:21	451:6,20,24

<b>lost</b>	443:13,14	536:9	293:4,8,14	511:10
386:6	444:14	<b>machine</b>	293:17	512:10
<b>lot</b>	454:20	291:19	305:6,7	520:17
312:11	455:8	293:3	307:3	521:1
353:4,6	457:11	318:22	318:22	523:17
383:12	462:2	324:21	319:10,20	524:2,10
401:11	506:13	325:14	319:21,21	524:24
418:18	507:8,11	349:6	320:24	527:21
426:12	508:12	353:12	322:18	528:21
431:25	514:17	372:11	323:2	529:9,13
446:9	515:1	390:16	324:22	529:15,16
450:17	524:16	391:24	344:13	529:24
463:4	525:5,11	422:14	350:14	530:3,8
475:17	525:12	437:18,22	351:5,6	531:22
490:14	549:13	437:23,23	356:6,20	533:17,19
491:11	<b>lottery's</b>	437:25	372:23	533:23
495:19	337:14	440:17	374:15,18	534:2
501:2	345:4	454:5	374:18	535:6
555:15	349:10	461:25	387:14,15	536:4,14
557:13	<b>lottery-...</b>	467:14	390:21	539:14,18
<b>lottering</b>	438:10	470:14	392:21	539:23
323:2	<b>Louis</b>	475:24	403:3	540:1,12
<b>lottery</b>	290:8	492:13	410:7	540:25
291:17	294:15	510:6	414:17	548:2
310:3	295:21	511:9	416:20	549:13,15
313:20,20	447:5	517:8,14	422:5	551:7,7
318:21	557:14	517:16,19	435:17	552:25
319:1,8,9	565:4	517:22,24	436:18	553:7
319:12,19	<b>loves</b>	518:4	438:2,18	554:15
320:18,20	396:4,4	519:3,16	438:25	559:4,6
322:12,18	<b>lower</b>	520:2,3,4	439:18,23	<b>Madam</b>
323:2	554:1	520:15	439:25	396:17
324:19	<b>lowly</b>	521:18	440:5,18	472:9,13
337:24	400:25	525:19,21	440:22,24	558:7
338:17	<b>loyal</b>	526:8,17	441:3,4,22	<b>magazine</b>
342:25	429:17	526:18	442:5	491:9
349:4,8,9	430:7	528:13	443:12,14	<b>magical</b>
350:2,6,14	<b>loyalty</b>	530:9	443:19,20	431:6
350:21	430:14,20	531:15	444:2	<b>main</b>
354:20	<b>lunch</b>	532:14	445:8	290:16
372:12	421:18	533:8	454:9,13	463:23
392:25	458:17	536:3,13	455:6,8	<b>maintain</b>
393:3,8	459:6	537:1,9	458:6	403:3
394:11,12	<b>lying</b>	539:11	459:17	<b>majority</b>
401:3	377:2	554:24	469:10	384:4
436:8,16		<b>machine's</b>	494:18,19	<b>making</b>
438:17	<b>M</b>	524:17	502:9	335:8
439:7,22	<b>M</b>	<b>machines</b>	506:22,25	356:24
440:6,17	437:2 536:8	291:24	507:4	377:11
441:4		292:1,7	510:8	

402:13	295:25	480:20	450:7	456:10,12
462:10	296:24	481:7	<b>McNutt</b>	456:18,18
565:16,17	298:15	508:11,13	503:21	463:1,9,15
<b>man</b>	300:19	508:17	<b>mean</b>	464:7
326:8	313:5	509:25	297:8	465:10
387:25	323:13	523:20	301:14	466:17
429:3	338:6,10	524:1	303:13	468:1,6
531:25	339:14	545:5	305:18	469:17,24
<b>manager</b>	341:20,22	<b>marketplace</b>	307:25	473:12
301:23	347:13	368:20	310:25	476:7
408:3	357:18	<b>marking</b>	320:2	487:6,15
410:6,8,15	371:20	300:15	322:8	489:21,22
410:19,22	406:19,22	314:16	332:5	490:4,9
<b>Manilla</b>	489:4,5	406:18	335:1,11	493:23
528:25	490:19,24	435:18	343:11	495:24
<b>manner</b>	492:21	507:17	346:3,4	500:17
375:7	493:1,5	522:18	354:12	501:6
383:21	504:13,17	<b>Marla</b>	358:16,24	502:1
469:20	509:10	292:8	359:12	509:4
471:23	522:24	408:17	362:14	525:3
473:1	535:9,12	412:17	363:2	529:22
512:15	538:1	413:5	364:13	532:25
<b>manpower</b>	540:6	415:9	367:16	537:19
369:24	541:21	489:6	369:6	538:20
370:3	547:15	<b>Mary</b>	375:15,15	546:2,14
<b>manufact...</b>	550:1,2	290:4	379:20	551:21
528:25	553:10	294:19	382:6,19	553:1
<b>Mar-</b>	555:25	<b>marygrac...</b>	384:23	559:11
412:20	556:7	290:11	389:22	<b>meaning</b>
<b>March</b>	<b>market</b>	<b>matching</b>	391:2,19	321:20
307:19	389:16,22	491:17	397:16	329:14
313:18	389:25	<b>mathematic</b>	400:6	359:17
315:23	390:2,13	521:24	410:12	422:7,7
324:6,13	390:20	<b>matrix</b>	412:18	484:22
459:14	391:11,20	460:14	416:16	532:17
462:24	391:24	<b>Matt</b>	418:17	<b>means</b>
463:9	393:15,24	373:11	420:24	325:23
482:14	394:5	<b>matter</b>	422:25	342:18
485:9	395:10	336:15	426:19	382:20
490:20	397:22	342:22	427:1,7	437:5
516:15,20	398:20,22	369:22	429:16	473:18
517:2	399:13	416:9	431:16,17	478:25
521:15	416:21	420:23	431:20	556:25
522:10	458:1	513:9,15	433:8	<b>meant</b>
<b>mark</b>	465:5	<b>matters</b>	437:16	328:25
459:7	471:13	389:13	442:16	344:1
510:11	472:1	<b>Matthew</b>	448:19	484:20,21
518:6	473:7,21	310:6	449:11	484:23
<b>marked</b>	474:24	<b>may-</b>	453:8	514:12,22
	476:12		455:12	514:23,24

557:9	413:13,20	<b>memorial...</b>	388:12	559:24
<b>measured</b>	418:5	301:21	<b>messaging</b>	<b>Mike</b>
493:20	485:12	307:11	444:1	543:4,14
<b>mechanized</b>	486:1	<b>memorial...</b>	<b>messenger</b>	547:3
437:3	<b>members</b>	299:2	493:21	<b>mile</b>
<b>media</b>	322:1 323:8	<b>memory</b>	<b>met</b>	529:7
309:22	340:20,23	306:11	309:18	<b>military</b>
<b>meet</b>	340:25	325:23	369:20	396:4
346:25	341:9	333:4	477:22	<b>millions</b>
369:11	349:7,7,21	358:19	554:22	342:23
<b>meeting</b>	350:15,20	369:17	<b>Metropol...</b>	<b>MILTENBE...</b>
436:6 437:7	353:13	424:18	290:6 565:3	289:10,11
437:12	354:4	448:13	<b>MGC</b>	<b>mind</b>
441:5,22	355:3,7	502:18	519:14	325:15
442:10,13	356:22,22	548:15	537:12	334:6,17
443:16	360:25	<b>mention</b>	555:2	391:9
444:10	365:17	368:23	<b>MGC's</b>	430:13
445:16	372:11	389:20	554:10	521:25
446:1	399:10	<b>mentioned</b>	<b>Michael</b>	<b>mindset</b>
467:9	402:22	326:7 373:9	542:18	534:25
503:19	403:1	384:24	543:8,9,21	<b>mine</b>
519:14	413:24	388:15	<b>Michelle</b>	300:3 348:1
526:22	414:12	409:15	491:15	404:12
530:13	431:22	415:14	<b>Mid-Miss...</b>	406:7
532:19	435:13	425:18	524:11	<b>minor</b>
533:7	458:12	433:18	<b>middle</b>	468:10
537:12	460:20,21	436:16	360:14	<b>minute</b>
543:15,20	461:7	462:16	393:13	467:24
544:1	467:17	466:17	449:21	<b>minutes</b>
<b>meetings</b>	477:23	502:2	495:11	325:8
321:16	480:17	508:21	<b>midstream</b>	358:22
366:15	505:8	523:17	553:25	458:18,19
493:24	545:15	544:7	<b>midway</b>	492:24
525:15	<b>membership</b>	<b>mentioning</b>	496:16	504:3
<b>Melody</b>	343:25	384:8	<b>Midwest</b>	<b>misinter...</b>
289:24	350:4	<b>mentions</b>	291:9	485:5
294:15	353:11	485:16	<b>might've</b>	<b>missed</b>
564:2,14	394:22	<b>Merry</b>	300:20	300:20
565:24	403:24	561:5,8	334:3	333:13
<b>member</b>	<b>membersh...</b>	<b>message</b>	341:15	<b>Missouri</b>
317:23	322:4	434:16	342:15,19	289:2
339:7	<b>memberships</b>	487:18	368:21	294:10,15
340:1,3,5	506:11	488:12	387:22	295:18
342:20	<b>memorial...</b>	495:8	419:11,16	309:22,23
347:25	298:24	549:11	424:25	309:25
351:4	299:9,18	556:17,17	452:19	310:1,3,7
358:3	<b>memorialize</b>	556:24	463:6	313:20
359:2	301:6	<b>messages</b>	500:20	316:7,10
412:2	307:16	387:20	558:5	318:21
	308:5			

319:1, 9, 12	422:18	536:22	<b>misunder...</b>	471:21
321:14, 25	427:5	538:12, 22	441:14, 15	472:24
322:17, 19	435:4, 12	539:5	<b>Mm-hmm</b>	<b>mom</b>
323:1, 3	438:11	540:3, 13	434:9 521:5	353:11
324:16, 19	439:1	541:5, 9	530:21	400:25
325:14	440:6, 20	543:5, 9, 12	<b>MO</b>	<b>mom-and-pop</b>
326:9, 17	441:4, 23	543:22	289:25	320:7
337:13, 14	445:18	545:6, 14	290:8, 17	343:23
337:24	446:4, 5	545:16	291:17	457:13
338:17	447:6	546:2, 21	293:10, 12	<b>moment</b>
340:5	449:22	547:3, 5, 7	325:9, 13	305:25
342:23, 25	451:5	547:21	325:17, 17	306:21
343:4, 7, 24	453:3, 7, 19	550:18, 24	325:17, 24	333:12
344:14	453:23	551:5	326:13	370:8
345:2, 4	462:1	552:9, 20	341:17	396:19
348:5	464:9	553:18	348:6	472:16
349:6	466:24	554:16	349:21	<b>Monday</b>
350:11, 20	467:10, 13	555:10, 12	354:4	408:18
353:12	467:15	557:23	358:6	460:25
354:19	470:8	558:1, 16	359:2	523:3
356:23	472:25	558:19	360:25	540:11
358:5	474:19	567:3	390:2	<b>money</b>
359:7	478:19	<b>Missouri's</b>	402:22	350:16
365:17	479:3	375:18	405:6	353:6
372:10	480:5	376:4	435:13	403:2
373:11, 24	481:11, 15	396:12, 24	564:15	455:10
374:12	481:16	396:25	565:4	456:2, 16
375:7	486:10	398:15, 21	<b>mobeer.org</b>	456:20
377:2, 4, 4	494:6	425:19	358:25	457:9
378:4	497:4, 25	450:25	<b>model</b>	475:18
379:23	503:12	468:22	390:25	525:12
380:17, 22	510:6	471:22	465:13	<b>month</b>
381:12	511:9	474:20	496:25	537:17
382:4, 15	512:14	<b>misspoke</b>	497:7, 17	<b>months</b>
383:22	516:3, 5	387:22	501:23	305:23
385:13, 18	517:6	500:2, 15	503:5	349:3
387:11	521:18	500:17	545:8	531:24, 24
388:17	523:10, 20	524:20	<b>models</b>	534:7, 12
397:4, 11	524:4, 16	528:4	391:16	534:16
397:15	525:4, 5	535:23	392:2, 9	<b>Moose</b>
398:13	526:4, 23	<b>misstated</b>	<b>modifica...</b>	320:10
400:14	529:5, 18	501:2	470:17	<b>moot</b>
402:3, 9	529:19, 25	<b>Misstates</b>	<b>modified</b>	370:2 480:6
403:10, 13	530:1, 2	403:15	469:19	<b>morning</b>
404:7	531:7, 15	520:12	471:7	304:1
409:12	532:17, 20	522:12	<b>modifies</b>	493:19
412:3	533:4, 16	<b>mistaken</b>	461:21	<b>mouth</b>
413:21	534:1, 14	498:7	470:11	330:16
414:6, 13	534:21	<b>misunder...</b>	<b>modify</b>	<b>move</b>
421:8	536:10, 19	537:7		



298:20	<b>Murphy</b>	414:16	330:18	312:13,19
299:24	293:11,18	433:4	333:17	499:19
300:1,9	547:17	434:17,20	334:16	564:9
301:5	548:17,18	434:24	335:1,9	<b>Nel-</b>
303:4	549:18	435:2,11	366:22	554:22
304:21,25	556:10	526:2	368:2,6,11	<b>Nelson</b>
305:1,3,7	<b>must've</b>	<b>natetate...</b>	371:1,3	293:15
305:14	344:22,24	339:17	372:13,16	553:13,16
307:5,8,12	420:7,9	<b>Nathan</b>	379:7	553:17,22
307:14	549:22	388:15,16	389:14,16	553:22
308:6	<b>muted</b>	517:12	392:12	554:5,8,21
309:4,5	559:24	526:2,3,9	397:14	554:22
313:6	<b>mutual</b>	526:9,11	421:25	555:1,10
324:1	544:5	527:2	433:3,7	<b>never</b>
330:22,24	545:25	529:4,22	440:18	330:1
335:8		530:15	451:23	351:22
364:16	<b>N</b>	531:4,10	452:24	368:8
371:21	<b>N</b>	533:3	453:25	376:19
425:12	290:1 291:1	534:12,17	454:15	378:3
544:8	291:1	536:20	456:5	381:25
560:10	294:1	537:22	458:17,18	382:2,4
<b>moved</b>	<b>name</b>	538:11,11	465:2	387:19,24
307:3	294:12	538:22	471:15	430:14,15
<b>moves</b>	327:11	539:3,22	476:20	430:19
299:3	416:6	539:23	481:1,2	481:11,14
<b>movie</b>	447:10	550:19	495:22	498:3,5,13
376:17	466:8	<b>near</b>	496:3,13	522:7
<b>moving</b>	500:7	352:22	504:2	547:1
413:25	517:25	368:2	508:9	<b>new</b>
<b>MPT</b>	526:11	<b>nearby</b>	534:7	292:9
494:5	544:19	539:16	545:2	296:19
<b>MPTs</b>	566:2,3	<b>necessarily</b>	561:20	298:14
436:8,23	567:6,7,17	295:22	562:2,16	323:12
443:7	<b>named</b>	308:10	<b>needed</b>	330:7
456:2,16	292:22	329:10	293:6	351:19,19
456:19	326:8	378:16	397:20	351:20
458:1	448:7	397:14	421:10	354:5
493:25	509:19	427:2	426:3	357:25
494:14	<b>narrative</b>	430:7	466:14	366:1
547:22	329:25	464:2	481:5	390:7,9
<b>mult-</b>	<b>Nate</b>	551:9	529:25	393:14,16
424:12	339:25	<b>necessary</b>	538:7,25	394:16
<b>multi-ju...</b>	340:15	380:24	<b>needing</b>	406:18
497:15	345:14	426:4	305:7	407:5
<b>multiple</b>	408:21	565:16	<b>needs</b>	432:20
304:2 420:3	409:5,11	567:15	367:15,24	434:21
424:15	409:22	<b>need</b>	397:9	459:8
503:8	410:6,13	296:10	425:13	461:8
551:16	410:14	327:25	449:10	471:20
			<b>neither</b>	472:23

474:17	<b>Notably</b>	315:7	547:8	491:18
481:4,5,6	523:25	<b>numbering</b>	563:2	<b>odd</b>
489:7,8	<b>notarized</b>	445:23	<b>objections</b>	340:23
490:24	565:19	<b>numbers</b>	352:3	418:7
495:5	<b>notary</b>	315:9,11,13	<b>obligation</b>	536:25
505:5	565:18	356:6	381:5,8	<b>offensive</b>
509:10,11	<b>note</b>	<b>numerous</b>	<b>obtain</b>	497:5 499:5
511:18	291:9 309:2	303:19,19	388:8 436:8	<b>offer</b>
522:18,18	509:23	425:18,19	525:19	395:7
541:21	<b>notes</b>	<hr/>	<b>obviously</b>	397:21
561:6	308:22,23	<b>O</b>	301:4	440:17
<b>Newman</b>	<b>notice</b>	<b>O</b>	307:18	<b>offered</b>
357:22	291:8	291:1 294:1	311:23	482:22
358:1,2,3	296:12,21	<b>object</b>	324:20	519:3,15
413:8,8,9	297:1,5,16	308:13	369:3	530:8
413:9	298:2,19	379:8	393:17	532:14
507:23	565:11	<b>objection</b>	426:21	533:8
<b>news</b>	<b>notified</b>	308:14	436:21	554:16
309:22	450:11	328:23	489:22	<b>office</b>
493:19,21	<b>November</b>	331:14	559:5	295:17
505:20	521:8 522:6	352:5	<b>occasions</b>	339:5
<b>newspaper</b>	<b>number</b>	375:22	346:19	342:16,17
437:12	294:7 300:7	376:14	<b>occurred</b>	408:24
<b>nice</b>	300:17	377:23	304:21	410:8
370:22,23	309:17	378:10,19	<b>October</b>	416:3
557:12	314:2,3,17	379:4,5,17	295:10	496:22
<b>night</b>	314:25	380:6	296:2	501:20
298:5,18	315:2,6	381:1,16	297:6	536:16
304:9	324:22	383:25	298:3	537:2,3
314:15	331:18	403:14	310:22	540:4
<b>nongambling</b>	388:5,19	404:9	312:13,23	543:16
448:23	396:14	405:19	325:19	548:3,7
<b>nonlegal</b>	411:21	410:25	357:21	554:23,25
446:20	435:23	431:2	360:11	<b>officer</b>
<b>nonprofit</b>	444:23	438:12	362:15	399:25
453:7	446:2	439:14	363:18	564:2
<b>nonsense</b>	461:8	452:3	372:21	<b>officers</b>
557:17	504:20	456:22	375:12	341:9
<b>nope</b>	506:20,21	464:12	503:18	442:25
422:21	506:21,24	467:1,3	517:1	<b>offices</b>
504:25	506:25	468:14	518:7	295:20
<b>Norberg</b>	508:11	474:8	520:24	<b>official</b>
486:6,17,20	509:15	477:11,14	521:17	360:7 361:4
486:25	522:21,23	479:5,6	526:23,24	<b>officials</b>
<b>normally</b>	550:12	480:7	528:9,16	400:12
340:19	560:24	511:23	530:20	<b>Oh</b>
424:21,23	<b>number's</b>	512:3	532:13	325:25
<b>North</b>	300:8	520:11	533:7	329:2
290:7 565:3	<b>numbered</b>	522:12	<b>OD</b>	358:6
		534:24		

365:20	329:2,8	402:1	448:2,11	509:4,5,10
391:8	330:2,7,19	404:23	449:2,8,16	509:10,14
421:14	331:1,6	405:22	450:2,16	510:14
434:13	332:2	406:17,17	451:3,10	511:4,18
458:22	333:11,20	406:22	452:15,25	512:1,19
460:11	334:11,18	407:9,12	453:6,15	512:22
478:18	335:17	407:15,21	453:22	513:20
487:15	336:19	408:15	455:15	514:1,9,15
518:12	337:1,7	409:17,22	456:9	514:21,21
524:22	338:10	410:3,12	458:15,20	514:25
529:2	339:2,14	411:9,18	458:20,24	515:4,12
531:21	341:25	411:18,23	459:11	515:15,20
537:25	342:12,21	412:17,19	460:11,16	516:24
544:2	343:11	413:5,12	460:20,24	517:21
561:16,22	344:19	413:22	461:14,20	518:6,12
<b>okay</b>	345:10	415:2,5,5	462:22	518:15,19
295:23	347:12	415:6,17	465:10	518:25
296:14,15	348:19	415:23	467:22	519:7,9,12
296:18	352:2,8,11	416:13	468:3,4,5	519:21
297:1,21	353:21	417:2	468:8	520:22
297:22,23	354:7	418:15,15	471:3	521:4,14
299:25	355:13	418:25	472:18,19	522:17
300:6,13	356:17	419:6,7,9	476:7	523:2
300:23	357:16,19	419:20	480:11,24	524:14,22
301:20	357:25	420:6,12	481:10	527:17
303:16,18	358:14	420:18,19	485:7	528:5,6,7
304:12	359:4,22	422:2,3,21	486:5,8,18	530:24
305:8	365:23	422:22	486:23	531:10
306:7,18	368:1,6,13	423:15	487:24	532:1,5
306:20	370:16,20	426:5,12	488:6,6,22	534:11
307:13	372:15,17	426:19	489:3,21	535:8,15
308:16	373:7,21	427:1,23	490:11	535:18,21
309:16	374:8,11	428:2	491:1,7,23	536:1,18
310:13	377:14,16	431:12	492:1,7,20	538:10,20
313:3,7	378:22	432:5,9,10	493:4,10	540:6,16
314:8	381:4,9	432:15	493:19	541:4,14
315:4,19	382:6,24	434:1,20	494:1	541:21
316:4,13	383:4,8,18	435:9,18	495:2,17	543:14,19
316:23	384:14,19	435:22	496:1,5,8	543:25
317:6,15	385:3,15	436:23	496:16	544:23
317:21	385:20	437:6	497:3,20	549:10
318:18	387:2	438:5	498:17	550:1,1,9
319:13	388:10	439:16	499:3	550:22,25
320:14	389:20	441:16	502:25	551:18
321:4	391:8	442:6,7,13	503:24	553:16
323:12,18	392:11	443:5,24	504:12,15	555:8
324:5	394:8	444:7	504:24	556:4
325:2,15	395:21	445:14,21	505:4	557:6
326:10,20	398:6,6,13	446:16,24	507:14,20	559:2,10
327:14	400:17,21	447:20	508:16	559:23

560:1	387:12,12	391:3,5,18	<b>options</b>	<b>Ouch</b>
562:8,12	437:19,24	392:3	429:25	428:6,6
563:3	517:5	397:5	436:7	<b>ought</b>
<b>old</b>	549:13	398:2,14	<b>order</b>	441:3
353:6	<b>operates</b>	398:25	291:21	443:13
393:15	317:17	399:13	299:16,21	514:17
548:22,24	318:1,15	401:20	299:22	515:1
549:1	453:4	403:7	300:4	525:11
557:12	<b>operating</b>	421:11	303:8	<b>out-of-s...</b>
<b>on-</b>	322:18,22	426:11	307:4	343:1
543:11	323:2	438:9	364:16	344:12
<b>onboard</b>	332:18	445:8	451:24	523:19
463:25	393:4	446:20,21	506:19	<b>out-state</b>
<b>once</b>	402:9	455:19	542:10	319:1
308:18	416:20	471:5	561:18,21	<b>outcome</b>
450:11	424:7	474:3	<b>ordered</b>	385:8 451:7
478:19	<b>operation</b>	510:25	526:16	466:21
481:4	327:15	513:13	<b>orders</b>	545:1
<b>one-pager</b>	474:21	520:4	299:8 301:5	564:12
556:1	<b>operations</b>	541:11	305:3	<b>outline</b>
<b>ones</b>	327:19	<b>opinions</b>	309:5	539:9
314:14	404:7	383:9	561:22	<b>outright</b>
<b>online</b>	471:11	385:17	<b>organiza...</b>	456:5
491:11	<b>operator</b>	390:12	318:15	<b>outside</b>
<b>open</b>	466:20	399:7,7	325:18	479:1 480:1
392:11	<b>operator's</b>	445:8	341:5	<b>outspoke</b>
420:23	470:5	446:2,7	356:5	500:2
455:21	<b>operators</b>	453:2	396:3	<b>overcoming</b>
518:8	291:19	455:19,20	438:7	397:19
553:3	293:10,12	<b>opponent</b>	453:17	<b>overreach</b>
560:5	325:14	354:3	460:22	291:17
<b>opening</b>	349:6	<b>opportun...</b>	546:5	313:20
342:9	353:12	318:23	<b>organiza...</b>	<b>oversight</b>
523:12	372:11	402:25	309:21	324:23
<b>operate</b>	457:23	<b>opportunity</b>	320:13,24	401:15
319:9	547:22	311:5	321:1	<b>overstates</b>
321:25	<b>opinion</b>	312:14	343:21	417:9
323:9	335:4	330:11	356:9	<b>owned</b>
375:6,18	374:20	362:17,20	394:3	299:5 327:7
380:15	375:6,16	431:11	395:7,13	541:11
383:21	375:24	494:25	396:6	<b>owner</b>
390:20	381:19	<b>oppose</b>	437:19	316:6 331:9
448:22	383:11,21	322:17	<b>original</b>	349:19,23
469:10,14	383:24	<b>opposed</b>	297:5 298:2	351:1,18
471:25	384:4,11	323:1	472:14	351:25
473:3	384:12	350:10	565:14,18	430:18
479:24	385:10	<b>option</b>	<b>originally</b>	465:15
<b>operated</b>	386:18	444:25	517:10	<b>ownership</b>
318:7	390:11	457:8	530:12	317:3 543:3

<b>owning</b>	461:20	509:22	<b>participate</b>	544:10
317:15	482:11	511:14	404:8	<b>passing</b>
424:7	484:11	515:5	<b>particip...</b>	378:16
<b>owns</b>	485:7	519:8	424:8	413:22
317:2 348:2	488:4	<b>paragraphs</b>	<b>particip...</b>	<b>pasted</b>
	489:19	410:4	417:11	487:8
<b>P</b>	495:4,11	551:14	<b>particular</b>	<b>path</b>
<b>P</b>	495:14,15	<b>paralegal</b>	307:8	353:9 524:1
290:1,1	496:17	382:10	363:25	545:4
294:1	504:24,25	<b>parapher...</b>	381:11	<b>patrol</b>
<b>package</b>	518:19,23	461:25	419:12	310:2
381:20	519:1,2,5	470:14	438:8	360:17
<b>page</b>	520:1	<b>paraphrased</b>	455:25	368:9,24
291:2,7	527:14	548:8	461:18	414:8,14
297:6,17	528:2,18	<b>parlance</b>	469:25	496:21
299:7,9,14	542:11,12	390:2	480:3	503:10
299:15,20	542:16	<b>part</b>	482:5	<b>patrol's</b>
299:20,22	544:17,18	304:20	521:10	501:18
299:23,25	549:8,10	305:14	537:20	<b>pause</b>
300:1,4,6	550:8	315:4	<b>particul...</b>	379:7,10
300:6,8,24	551:13,19	318:1	344:7 396:3	<b>pay</b>
304:16,23	565:10,14	322:5	<b>parties</b>	390:17
309:12	565:18,19	332:22	560:13,19	506:16
313:13,17	566:7,11	350:5	560:25	<b>payroll</b>
313:22,24	566:15,19	351:2,19	564:10	412:23
313:24,25	566:23	355:19	565:21	<b>PDF</b>
314:6,13	567:1	363:20,25	<b>partnership</b>	314:6
314:21,22	<b>pages</b>	364:1	546:17	<b>penalize</b>
314:25	289:15,23	369:1	<b>party</b>	366:4
315:7,15	299:15	394:23	307:22	<b>penalties</b>
315:17,18	304:2,14	395:22	353:4	295:5
315:19,22	304:16	415:17	447:1,3,4	332:18
315:25	307:14	416:13	450:11	416:19
316:5	<b>paid</b>	417:2	465:18	424:6,6
336:20,22	494:9,10,17	425:2	<b>pass</b>	426:4
336:24,25	<b>PAISNER</b>	442:10	351:3,21	463:21
358:9	290:5 565:2	443:4	<b>passed</b>	<b>penalty</b>
367:17	<b>par-</b>	454:25	305:11	567:18
372:20	519:8	481:14	370:14	<b>pendency</b>
373:17,17	<b>paragraph</b>	484:6	377:3	308:9
382:24	318:19	492:8,14	378:4	<b>pending</b>
384:20,21	322:16	523:24	382:4	294:8
408:16	325:7	535:4	421:1	335:20
411:18	342:9	548:19	423:18	515:15
432:18	364:24	549:19	425:3	516:3
434:5,8	393:21	552:1	464:20	<b>people</b>
441:20	445:22	<b>participant</b>	465:21	309:20
451:3	455:18	454:21	481:11,15	311:3
459:23	461:21	476:23	483:13	327:8
460:4,6	495:5,16			

328:8,9	567:18	381:12	324:19,21	326:3 499:5
344:3,9	<b>permission</b>	383:16	343:15	<b>play</b>
346:25	324:24	386:1,8,11	401:14	367:2,2
348:22	<b>permit</b>	386:17	506:14	385:8
374:8	360:19	387:10,11	<b>pinned</b>	390:18
384:5,8,10	<b>person</b>	387:18	433:22	399:4,5,6
389:12	380:1 399:3	389:2	<b>place</b>	405:16
390:18,20	428:23	496:20	302:1 403:3	512:6
392:19	429:17	497:20	436:18	<b>Play-Mor</b>
393:10	<b>personal</b>	498:12,14	443:6,9	289:6 316:7
401:12	299:17	500:24	444:16,18	316:13,16
406:11	307:10	501:17	450:12	316:17
411:11,21	399:7	533:20	458:5	317:12
424:6,15	560:10	540:23	465:3	318:8
424:24	<b>personally</b>	541:18	494:4,18	348:2
433:18	317:22	<b>philosophy</b>	527:3	407:22
435:24	358:16	381:18	539:18,22	540:3
437:8	398:11	<b>phone</b>	<b>placed</b>	565:7
442:4	404:18	298:25	321:22	566:3
443:2,18	448:2,7	304:5,22	402:2	567:7
457:7	453:16	333:12	403:10	<b>played</b>
463:5,21	560:22	478:4	480:4	555:17
465:19	<b>personnel</b>	500:24	510:3	<b>player</b>
473:11	357:2	502:22	529:16	357:25
477:24	<b>perspective</b>	<b>phrase</b>	<b>placement</b>	385:7
478:12,16	393:19	391:21	493:24	393:14,15
493:8	406:6,7	434:10	494:13	393:16
494:18	441:18	559:12	524:9	<b>playing</b>
497:23	<b>pesky</b>	<b>phrased</b>	<b>places</b>	525:13
504:20	335:2	441:19	421:8	<b>playmor.com</b>
508:5	<b>Peter</b>	<b>pick</b>	436:19	412:9
509:15	349:19	297:20	480:1	<b>Plea-</b>
525:4	350:8	421:20	<b>placing</b>	550:15
531:22	352:25	430:4,22	400:14	<b>pleading</b>
544:9	353:15	430:25	525:20	448:8
548:6	357:12	456:4	<b>plagued</b>	<b>please</b>
550:4,12	<b>Peter's</b>	<b>picked</b>	545:6	294:17,25
557:13	354:1	430:15	<b>plaintiff</b>	338:7
<b>percent</b>	<b>petitioned</b>	<b>picture</b>	289:7 290:2	375:1
400:7	499:20	467:19	294:20	396:18
<b>percolating</b>	<b>Petroleum</b>	<b>pie</b>	296:23	409:8
401:10	291:9	404:5	448:9	430:5
<b>perfect</b>	<b>Phelps</b>	<b>piece</b>	<b>plan</b>	432:12,14
355:1 370:5	373:12,23	404:5	351:2 354:3	447:11
<b>period</b>	374:2,5,12	546:20	526:2	460:24
325:17	374:22	<b>pieces</b>	560:12,15	472:10,14
363:9	377:1	482:7	<b>plan's</b>	472:17
463:9	378:25	<b>pilot</b>	555:21	482:16
<b>perjury</b>	379:1	320:19	<b>plans</b>	527:4
295:5				

538:11	442:7	340:9,15	511:19	360:22
550:15	445:6	361:5	512:12	<b>present</b>
552:22	454:6	363:3,7	524:5	426:24
561:18,21	469:25	380:1	545:13	<b>presented</b>
565:14,15	483:15	398:18	<b>power</b>	304:1
565:18	492:18,24	428:19	353:5	305:10
<b>plugged</b>	519:19	441:21	401:11	<b>presently</b>
414:18	520:19	479:10,14	<b>power-mo...</b>	326:24
<b>PM</b>	525:3	479:16,22	466:7	<b>president</b>
289:20	529:14	479:23	<b>powerful</b>	400:1
459:1,4	530:10	<b>possession</b>	354:2	<b>pretend</b>
460:10	<b>pointed</b>	503:21	465:14	390:23
482:14	404:16	<b>possibility</b>	<b>powers</b>	<b>pretends</b>
491:8	<b>pointing</b>	522:16	361:24	376:18
504:8	476:19	<b>possible</b>	<b>practical</b>	<b>pretty</b>
542:17	<b>police</b>	310:19	478:2	296:11,12
549:6	550:23	441:14	<b>practice</b>	369:4,5
559:21	<b>policy</b>	562:1,15	360:14	444:8
563:5	364:20	565:15	362:18,21	449:10
<b>PohlmanUSA</b>	<b>political</b>	<b>possibly</b>	<b>pre-date</b>	465:14
289:22	396:2	303:20	531:1	499:10
294:13,16	397:20	337:18	<b>pre-reveal</b>	500:13
565:6,25	430:1,3	338:1	293:8,14,16	<b>prevent</b>
<b>point</b>	465:17	429:2	332:25	544:10
310:17	557:14	524:3	333:2,24	<b>prevented</b>
311:6	<b>politically</b>	<b>post</b>	334:3,7	367:16,24
312:14	475:19	388:19	335:21	<b>preview</b>
325:3	<b>pool</b>	409:16	424:4	332:24
348:9	529:10	529:7	440:24	385:7
349:1	<b>pop</b>	539:18,23	492:9	<b>preview-...</b>
350:1,12	353:12	<b>potential</b>	540:12	547:7
353:20	400:25	312:1	<b>pre-reve...</b>	<b>previous</b>
354:13	<b>Poplar</b>	459:20	336:11	308:16
355:2,18	358:4	466:21	<b>preceded</b>	311:12
356:15	413:10	468:11	534:17	321:10
361:14	<b>popped</b>	480:18	<b>precursor</b>	325:12
362:16	343:22	511:1	390:13	337:8
363:2	<b>popping</b>	<b>potentially</b>	<b>predict</b>	387:16
364:8,15	328:5	310:18	330:15	399:2
368:2,16	372:23	323:7	<b>preference</b>	440:21
386:1	385:6	363:5	430:3	506:20
387:4	<b>populate</b>	400:15,22	<b>premises</b>	541:15
392:12	296:19	401:23	361:18	<b>previously</b>
402:12	<b>position</b>	403:2	362:25	341:11
403:25	328:7	427:19	366:6	354:10
405:2	329:12	438:10	<b>prepare</b>	476:8
423:5	330:5,12	441:24	310:16	492:3
424:1,5	330:14	442:1	311:1	497:21
432:24	336:14	468:21	<b>prepares</b>	502:3
433:21				

554:10	340:9,12	395:24	318:20	462:13,16
<b>principle</b>	341:5,14	408:23	497:17	463:3,7
399:20	346:13	413:25	502:9	470:17
429:24,25	354:16	435:3	<b>promise</b>	471:7,20
<b>printed</b>	364:23	455:2	330:11	472:23
302:20,21	365:1,2	458:12,14	505:23	473:15
303:6	400:25	510:5	<b>promised</b>	481:13
306:6,8,10	412:16	511:8,15	494:14	482:6,22
306:17	417:9	514:16	505:11,12	483:10,17
309:2	467:24	526:3	<b>promote</b>	484:12
315:11	470:6	530:5	327:6,9	485:8,10
<b>prior</b>	492:11	531:2	494:13	488:4
297:5,16	500:1	<b>proclama...</b>	<b>promoting</b>	489:1,9,13
298:2	502:7	479:25	327:20	515:9
310:22	539:9	<b>produced</b>	392:24	538:22
311:13	548:25	296:7,13	<b>Promotional</b>	539:25
324:13	<b>probe</b>	297:25	326:25	<b>proposing</b>
333:22	452:18	303:13	327:3,13	474:17
339:22	<b>problem</b>	304:9,10	327:14,18	480:16
342:4	308:18,19	306:24	327:23,24	<b>prosecute</b>
345:8	328:9	311:9	328:19	496:24
393:7	341:3	312:12	331:7,9,23	497:6
410:6	367:11	<b>production</b>	336:15	499:23
430:17	414:3	315:9	<b>pronounced</b>	501:22
462:6	416:21	<b>producti...</b>	316:25	503:4,9
488:14	423:2	565:19	<b>properly</b>	555:4
489:24	431:14	<b>professi...</b>	394:19,21	<b>prosecuting</b>
518:7	433:23	428:23	454:24	373:23
527:15	463:20,24	<b>profit</b>	<b>properties</b>	374:11,21
528:8	464:21,23	399:11	316:8,24	377:1
543:19	466:2,2	<b>program</b>	317:1,5,7	379:1
553:20	475:22	318:22	317:13	380:14
554:20	476:20,24	319:20	<b>proponent</b>	389:10
555:1	478:20	320:19	393:6,6	498:6
<b>prize</b>	486:24	324:19,21	394:10	555:4
385:9	512:9	327:4	<b>proposal</b>	<b>prosecution</b>
423:20	562:19	343:15,17	484:15	461:24
<b>prizes</b>	<b>problems</b>	343:18	<b>propose</b>	470:13
471:12	476:22	355:6	468:21	<b>prosecutor</b>
<b>pro</b>	<b>proceed</b>	401:14	<b>proposed</b>	373:11,13
417:24	294:25	404:2,3	332:10	374:3,6
423:9	389:18	506:7	333:22	379:24
424:22	435:15	<b>progress</b>	334:4,8	383:15
<b>probable</b>	<b>process</b>	501:2	336:10	386:2,9,11
503:10	305:17	<b>project</b>	352:21	386:17
<b>probably</b>	325:16	349:10	366:8	387:18
298:9	337:17	350:20	370:12	389:2,7
309:17	353:20	506:14	420:1	496:23
311:25	355:8	<b>prolifer...</b>	459:20,20	497:12,22
	357:15			498:14,19



499:4,21	498:18	<b>push</b>	315:14	512:23
500:5,10	501:17	395:11,12	318:3	513:4,18
500:24	502:22	544:6	328:24	514:8
501:21	<b>pull</b>	<b>pushing</b>	329:1	520:13
502:22	296:9	444:12	330:1,7,20	527:22
503:5,6,8	318:21	<b>put</b>	331:16	528:22,24
503:15,19	319:9	298:9	332:23	532:7,10
523:8,10	322:10	304:19	351:11,16	532:21
526:12	323:23	319:21	351:17	543:7
547:25	337:25	323:12,18	352:6	558:6,13
552:19	347:3	334:8	354:24	558:22,25
557:3	350:14	353:25	355:1	<b>question's</b>
<b>prosecut...</b>	351:5,22	394:12	359:18	380:6
380:4 500:7	363:5	424:20,20	363:1	<b>question...</b>
<b>prosecutors</b>	393:2	424:22,23	364:9	444:24
379:23	437:1,3,3	436:19,21	379:11,15	<b>questioning</b>
380:16,21	506:7	437:2	380:7	379:8
496:19	507:3	446:13	381:5	555:19
501:16	549:12	458:1	391:7	<b>questions</b>
503:3	<b>pulled</b>	462:17	395:16	295:8
524:4	323:15	478:1	396:18,20	312:12
555:4	459:9	490:14,14	400:7	333:13
557:2,25	<b>pulling</b>	508:20	411:7	375:1
558:18	305:23	522:2	415:1	377:23
<b>prosecut...</b>	322:13	525:15	418:14,23	432:14
523:4	<b>purchased</b>	526:19	419:1,4,10	467:2
<b>protect</b>	517:3,10	534:3,22	422:4	514:3
441:1,1	529:3	556:6	425:10	<b>quick</b>
<b>provable</b>	536:22	<b>puts</b>	429:3	449:10
451:6	539:14	393:19	430:13	<b>quicker</b>
<b>prove</b>	<b>purchasing</b>	425:5	441:15,19	330:23
451:13	517:9	<b>putting</b>	442:1	525:23
<b>provide</b>	<b>pure</b>	371:18	449:9	<b>quickly</b>
344:15	430:13	455:13	456:23,25	324:1
510:4	<b>purpose</b>	470:19	463:13	<b>quite</b>
554:13	439:5		467:23	302:18
<b>provided</b>	463:23	<b>Q</b>	468:1,7	370:21
346:11	531:15	<b>quacks</b>	470:9	388:22
457:3	533:6	510:10	472:7,12	397:8
<b>provisions</b>	<b>purposes</b>	<b>qualified</b>	472:15,18	515:19
461:23	307:17	378:8	472:20	545:18
470:12	316:14	469:23	473:14,23	553:9
<b>public</b>	377:17	<b>qualifies</b>	474:9	<b>quote</b>
309:23	461:23	430:23	477:14,15	324:19,20
415:20,24	470:12	<b>question</b>	484:14	386:3,3,12
540:21	<b>pursue</b>	299:14	488:9	386:13
<b>Pulaski</b>	503:20	309:11	490:2	417:20
496:20	<b>purview</b>	310:23	495:22	451:5
498:6,8,17	480:1	312:18	508:24	461:22,22
			509:1,8	

463:15,16	363:23,24	543:16	553:25	<b>reasoning</b>
470:24	364:23	548:9	<b>really</b>	386:2,12
471:8,22	365:9	549:22	301:3 302:9	<b>reasons</b>
471:25	368:13	551:3,12	309:8	323:4 423:4
472:25	369:25	551:19	312:17	551:17
473:3	374:23	557:3,9	361:8	<b>recall</b>
474:20	382:14	558:10	363:15	296:3
480:19	383:12,14	559:20	364:2,5,22	309:17
510:9,11	386:4,14	565:15	365:3,9	310:10,14
523:18,18	386:15	566:8,12	387:21	333:22
533:7	394:1	566:16,20	395:4	345:20
	396:18	566:24	398:17	346:18,22
<b>R</b>	401:24	567:12	414:25	346:22
<b>R</b>	409:1	<b>reading</b>	418:1,22	375:8
290:1 294:1	416:11	319:17	419:3	408:7
<b>radio</b>	417:4	358:18	451:20	412:4
548:20	421:12	359:11	452:9	462:9
<b>Randy</b>	422:6	365:2	465:4	507:1
550:10	423:6,13	380:2	466:1,1	<b>receive</b>
<b>range</b>	434:22	390:5	473:24	306:3
309:20	436:9	421:17	534:21	<b>received</b>
<b>re-</b>	437:13	435:7	536:24	297:5 298:5
407:8,8	442:7,7	436:20	537:6,19	299:1
463:4	446:22	445:20	556:1	314:15
486:14	449:24	461:16	557:12	315:8
<b>reach</b>	450:23	469:3	562:10	325:8
340:24	453:9,12	496:6	<b>reason</b>	362:15
344:9	456:7	501:3	295:19	487:9,18
403:22	463:13	564:8	309:9	<b>receiving</b>
444:14	465:8	565:12	330:4	513:7
494:21	472:10	<b>reads</b>	336:4,6	<b>recipient</b>
<b>reached</b>	475:2	473:8	341:12	372:6
405:5,6	476:17	<b>ready</b>	374:1	415:15
<b>reaching</b>	488:2,3,6	364:5,25	376:24	542:24
342:17	488:11	565:12	378:2,23	553:23
<b>reaction</b>	491:20	<b>real</b>	379:16,19	<b>recipients</b>
367:15	495:22,25	317:3,13	403:4	455:18
<b>read</b>	496:3,3,25	353:24	428:13	554:5
301:24	510:11	365:15	460:1	<b>recognize</b>
316:10	513:10	518:13	498:20	359:2
319:2,25	514:18	<b>reality</b>	536:11	<b>recollect</b>
321:2	524:11,19	363:14	552:1	356:25
324:25	524:23,25	453:23	565:17	364:2
337:19	525:24	478:2	566:9,13	481:17
343:8,8,13	530:10,19	<b>realization</b>	566:17,21	<b>recollec...</b>
344:17	532:25	355:4	566:25	307:10,16
351:13	533:1	<b>realize</b>	<b>reasonable</b>	321:18
362:17,20	538:17	396:5	377:11,18	343:19
363:18,21	539:18	<b>realized</b>	377:20	346:11
	541:2		524:7	

352:12	361:17	<b>registered</b>	431:21	463:4,10
353:16	<b>reduced</b>	326:17	<b>relativity</b>	481:24
356:3	361:13	426:18	315:12	484:2,7,25
389:3	564:7	<b>regular</b>	<b>Relevance</b>	485:19
442:19	<b>refer</b>	304:14	376:15	488:21
443:5	316:15	<b>regulate</b>	431:2	492:14
444:19	325:13	394:20	<b>relevant</b>	493:15,17
445:4	393:1	479:1,24	351:25	494:20
463:2	<b>reference</b>	<b>regulated</b>	361:1	498:8,9,10
481:19	422:5	363:4	414:4	499:7,11
482:8,20	<b>referencing</b>	394:19	<b>remain</b>	499:13
502:24	463:6	454:23	559:2	500:10
535:3	<b>referred</b>	<b>regulation</b>	<b>remained</b>	502:18,19
548:12	408:3	370:12	324:16	506:5
<b>reconnected</b>	409:18	<b>regulations</b>	<b>remaining</b>	508:11,18
335:7	<b>referring</b>	367:7	493:25	508:19,25
<b>reconvene</b>	299:13	479:25	<b>remember</b>	509:2,6
560:6	368:21	<b>regulatory</b>	305:20	510:9
562:25	390:4,21	361:24	308:6	515:17
<b>record</b>	391:6,24	364:20	311:19	517:11
294:2,18	393:16,23	366:1	312:2,2	527:10
300:15	400:22,23	<b>rein</b>	321:9,24	537:10,14
302:1,10	401:16	321:17	325:25	539:8
303:21	421:13	<b>reincorp...</b>	332:19	541:6
315:8	434:7	297:15	334:1,2,4	543:4
371:13,15	438:1	<b>reiterate</b>	340:14	544:4
371:16	445:11	324:12	341:8	548:21
447:11	451:17	<b>rejoined</b>	342:13	555:6,15
459:1,2,3	483:24	562:5,7	343:17	555:16
496:10	510:19	<b>relate</b>	344:21	556:22
504:8,9,11	<b>refresh</b>	331:12	345:22	<b>remind</b>
555:21	407:8 463:2	385:12	350:9	523:7
559:19,21	482:20	<b>related</b>	351:4	<b>reminder</b>
560:2,17	<b>refreshing</b>	328:16	352:20,22	432:11
564:5	358:18	498:14	361:12	<b>remote</b>
<b>records</b>	<b>refusing</b>	516:10	369:2,15	289:16
302:9	423:3	554:14	370:10,19	563:4
304:18	<b>regard</b>	564:9	375:13	<b>remotely</b>
311:7	565:22	<b>relating</b>	400:2	294:11
<b>recourse</b>	<b>regarding</b>	298:19	404:21	<b>removal</b>
308:21	292:6	461:23	408:11	328:15
<b>redefine</b>	446:17	470:13	409:15	<b>removed</b>
464:10	459:16	<b>relation...</b>	418:2	356:9
<b>redemption</b>	499:5	426:13	420:5	<b>removing</b>
469:10	550:19	428:17,21	424:2,9,19	328:13
471:10	<b>regardless</b>	442:21	443:22	<b>render</b>
475:7	303:9	448:17	444:5	567:15
<b>reduce</b>	<b>regards</b>	494:25	448:10	<b>reopen</b>
356:6	438:8	<b>relation...</b>	462:14,18	562:24

<b>rep</b>	561:20	422:10	<b>responded</b>	374:16
341:7	562:4, 8	543:5	345:20	<b>restricted</b>
<b>repairing</b>	564:1, 14	<b>reps</b>	363:22	356:8
357:4	565:25	442:14, 17	389:7, 8	<b>restroom</b>
<b>repairs</b>	<b>reporting</b>	443:8	513:21	371:4
356:24	294:13, 16	445:12	<b>responding</b>	<b>result</b>
<b>repeat</b>	410:7	<b>request</b>	332:22	304:4
351:14	435:12	415:25	367:12	420:13, 17
354:23	<b>represent</b>	511:6	369:1	420:18, 18
447:9	297:13	554:12	486:25	420:22
472:14	298:16	<b>requested</b>	489:24	548:9
513:4	378:25	564:8	505:7, 17	<b>results</b>
552:23	383:18	<b>requesting</b>	549:21	427:19
553:1	399:22	515:23	<b>responds</b>	<b>retailers</b>
<b>repeatedly</b>	401:20	<b>requests</b>	554:8	368:7
442:6 445:7	427:3	<b>required</b>	<b>response</b>	<b>retained</b>
<b>repetitive</b>	519:12	368:10	345:10, 13	326:23
455:12	545:1	364:18	345:16	428:2, 4, 5
<b>repla-</b>	<b>represen...</b>	394:16	346:3, 4, 6	516:20
393:21	548:15	560:21	346:7	517:2
<b>replace</b>	<b>represen...</b>	<b>requirem...</b>	419:10	<b>retainer</b>
399:12	404:17	302:3	511:6	327:1
<b>replacement</b>	<b>represen...</b>	<b>requires</b>	527:5, 20	<b>retaining</b>
393:22	295:11	378:7	528:11, 20	331:8
394:6	296:22	<b>research</b>	528:23	<b>retirement</b>
<b>replacing</b>	338:24	389:13	529:2	326:3
398:13	339:2, 4, 8	<b>researched</b>	543:8	<b>return</b>
<b>RePlay</b>	339:21	374:19	549:17, 19	387:3
491:9	341:13	<b>reside</b>	552:13	<b>revealed</b>
<b>report</b>	345:17	523:11	<b>responses</b>	493:5
360:22	359:9	552:21	329:25	518:11
414:6	<b>represen...</b>	<b>residency</b>	346:12	<b>revenue</b>
522:3	320:23	339:5	<b>responsi...</b>	323:6
<b>reported</b>	340:14, 18	<b>residential</b>	380:2	<b>reverse</b>
289:24	341:16	317:4	453:12	542:10
503:12	344:8	<b>resources</b>	<b>responsive</b>	<b>review</b>
<b>reporter</b>	401:21	497:15	298:1, 19	358:22
294:15, 24	437:11	<b>respect</b>	312:15	526:5
327:17	443:24	337:24	418:14	<b>reviewed</b>
351:12	<b>represented</b>	446:2	<b>rest</b>	536:22
358:11	326:13	473:15	505:8	<b>revise</b>
371:9	367:21	477:12, 19	537:23	482:13
396:17, 19	399:23	480:1	<b>restate</b>	<b>Revised</b>
412:5	499:24	<b>respond</b>	329:6	425:20
432:13	<b>represen...</b>	298:10	<b>restating</b>	474:19
472:9, 14	320:25	310:16	329:5	<b>reward</b>
472:16	405:2	346:1	<b>restaurant</b>	337:13
558:7, 9, 13	438:7	370:6	320:8	345:4
561:13, 17	<b>represents</b>	505:18	<b>restaurants</b>	<b>Rich</b>

295:24	338:2,4,16	403:23	469:21	536:6
352:4	338:25	405:1,13	470:25	537:25
382:16	339:12,14	405:17	471:14,17	539:6,12
428:6	339:23	406:18	471:25	540:6
449:10	340:7	409:25	472:18,20	541:12,21
474:12	341:20	410:16	473:3,4	546:3,8
477:18	342:6	411:9,14	474:4,13	550:20
504:2	347:12	411:21	474:16	553:10
<b>Richard</b>	354:5,22	413:6	477:1	554:3,18
290:3	355:10	415:15	479:3,19	556:6
294:19	356:2	418:25	480:6,14	557:4
565:2	357:17	421:9,15	480:15	558:23
<b>richard....</b>	359:23	423:12,20	481:3,11	559:1
290:10	362:25	423:21	481:16	561:12
565:5	363:11,19	425:23	482:8,10	562:18,18
<b>rid</b>	363:23	426:7	483:8,15	<b>right-hand</b>
368:7 395:9	366:8	427:5,6,7	484:17	544:13
553:6	367:14,16	427:25	485:23,23	<b>risk</b>
<b>ridding</b>	367:17	428:3	486:2,10	455:10
396:2	371:18,24	429:24	487:10,20	<b>risks</b>
<b>right</b>	373:13,19	430:1	487:22	395:13
295:9,15,23	374:3	431:1,10	489:1,9	<b>road</b>
296:2,5	375:12	431:20	490:12,24	387:14
298:11,13	376:22	432:16,17	492:5,6,20	444:22
299:24	378:8	432:25	492:25	463:11
301:16	379:2,16	434:25	493:12	531:8
303:23	379:19	435:14,18	495:10,10	533:21
304:6	380:5	436:3	496:16	<b>role</b>
305:24	381:7,23	442:2	498:1,2,15	379:22
307:20	382:2,3,4	443:7	500:3	<b>roller</b>
310:11	382:5,11	444:16,22	501:4	505:15
311:10	384:7,15	445:12	502:7	<b>Ron</b>
313:3	384:20,22	450:20	503:14,14	326:8,8
314:23,24	385:1,13	451:1,16	503:24	356:11
315:21	385:18	452:20	504:5,10	357:22
316:19	388:3,5,14	453:4,20	509:4,19	411:23
318:9,18	389:2,10	454:11	511:2,13	413:20
319:11	391:4	455:17,22	511:16	435:23
320:22	393:25	457:20,25	512:17,20	439:20
321:9	395:10	458:2,12	513:1,24	504:19
324:2	397:24,25	458:15	516:22	<b>room</b>
325:5	398:4,6,15	459:5,23	518:2,23	299:5 371:7
328:8,9	398:24	460:2,14	520:2	437:8
329:13	399:2,13	460:18	521:6,19	559:15
330:19	399:21	461:15	522:17	561:15
331:1,4,21	400:15	462:21	527:14,18	562:5
335:11,18	401:23	464:11,15	530:12	<b>ropes</b>
336:1,9,16	402:4,17	464:25	531:8	418:8
336:19	402:20	468:24	535:8,21	<b>rough</b>
337:2	403:4,13	469:7,17	535:24	

561:25	388:17	396:7	301:11	545:18,19
562:14	408:22	397:17	314:16	546:1
<b>route</b>	433:4	401:6	358:19	547:21
408:3 544:3	517:23	402:2,5,5	359:5	549:18
<b>row</b>	529:5,17	402:16	360:13	551:20,20
334:22	537:22	404:23,25	362:5	552:4
<b>RPR</b>	<b>sanction</b>	405:1,4	367:15	556:16,23
289:25	366:4	417:5	373:7,22	<b>SB</b>
564:15	<b>sanctions</b>	421:6	374:12,25	292:6
<b>RSA</b>	393:10	422:15	383:6	459:16
289:25	<b>sarcastic</b>	429:23	385:3	460:25
564:15	450:22	430:12,18	386:1,4,13	483:10
<b>rude</b>	<b>sat</b>	437:6	387:24	<b>scale</b>
312:7 330:8	382:2,6	438:19	389:6	430:4,22
419:3	<b>save</b>	441:21	393:21	431:6
468:2,6	454:22	442:5	408:21	<b>scanned</b>
<b>rule</b>	<b>saved</b>	445:14	410:1,5,17	302:21
542:9	299:19	446:10,23	419:18	<b>scene</b>
<b>rules</b>	<b>saw</b>	451:10	420:13	390:7,15
365:7	338:16	452:17	422:6	<b>Schatz</b>
366:20	368:18	453:15	433:9	293:9
367:2,3,4	375:10	454:1,2,9	434:17	309:22
367:6	427:12	454:11,15	445:20	313:9
399:4,6	488:14	455:13	453:11	416:10,14
431:15	489:23,25	460:12	460:20,24	416:18
<b>run</b>	490:1	464:6	461:1,21	417:3,6,17
327:4	<b>saying</b>	465:1	462:2,4	419:12,17
447:18	303:7,11,12	469:9,18	468:25,25	420:25
<b>rush</b>	306:2	470:22	469:2,2	423:8,17
562:2	313:23,24	473:22	471:16	424:1,13
	333:21	476:10	472:12	462:13
<b>S</b>	335:19,21	481:3,21	475:3	476:21
<b>S</b>	353:23,23	482:1	476:4	481:23
290:1 291:1	354:1	484:15,25	482:15	482:11,15
291:5	361:16	487:13,16	486:23	482:21
294:1	363:13	488:3,13	488:6	483:2,16
<b>S-m-a-r-r</b>	364:4	488:17,18	491:9,25	483:20,21
358:11	365:25	500:18	495:5	483:25
<b>Sa-</b>	367:18,22	501:7	496:14	484:14,16
439:14	369:3	505:9	497:19	485:1,11
<b>safe</b>	377:5,6	509:7	511:12	485:14,17
452:16	381:9	510:20,20	512:10	495:12
561:8	390:11	511:7	513:17,25	496:18
<b>safety</b>	391:6,9,10	512:5	518:21	498:5
309:23	391:14,19	522:21	520:14,14	499:15,20
540:21	391:22,23	531:4	520:16	500:4,8
<b>Saint</b>	392:7	551:9	521:3	501:15
348:5	395:2,11	557:16	524:21	503:1,14
387:11,13	395:16,18	<b>says</b>	543:24	513:22
		299:16	544:20	514:12,15

514:12,15	314:1	315:2,3,22	505:2	541:7
514:22,24	<b>screwing</b>	315:24	507:18,19	<b>sees</b>
515:3	436:11	319:22	508:6,7,13	557:17
525:10	<b>scroll</b>	341:22	509:12,13	<b>segregated</b>
537:8	504:24	347:15,16	509:17	303:3
540:18	<b>scrolling</b>	349:16	515:10	<b>self-ser...</b>
541:17	338:21	358:12	519:4,11	405:24
542:2	486:11	371:21	519:19	406:9
543:20	<b>search</b>	372:17,23	522:20	<b>sell</b>
550:13	310:19	373:14,20	523:2,4,5	353:14
555:11,12	472:17	375:2,3	526:18	531:17,20
<b>Schatz'</b>	491:18	382:25	531:12	531:22
422:24	518:16	383:3	535:11,14	<b>Senate</b>
463:3	<b>season</b>	385:4,8,14	536:12	417:24
486:1	351:3,21	386:9,10	538:3,7	423:9,18
543:16	<b>seat</b>	389:11,18	540:7,14	424:15
<b>Schatz's</b>	405:16	400:11	540:21	459:21
420:1 486:3	<b>second</b>	405:10	541:1,3,23	461:8,12
535:19	299:15	406:13,16	541:24	462:5
<b>schedule</b>	313:1	406:20,21	542:13,16	483:11
421:21	334:13,16	407:2,4,10	542:19	486:10
521:11	334:23	407:12,12	544:14,22	489:9
<b>school</b>	392:12	407:20	545:9	505:21
376:12,19	432:18,18	408:16,20	547:19,22	<b>Senate's</b>
376:20	453:1	410:10,11	549:4,6,10	514:16
377:3,19	467:2	411:4,12	550:5	<b>senate.m...</b>
377:21	509:21	415:12,19	551:8,18	337:4 486:8
378:8	518:13,17	415:22	553:4	486:21
381:25	555:20	417:21	554:1	<b>Senator</b>
382:7	<b>secondly</b>	420:14,20	556:8,9,12	309:21
<b>science</b>	531:23	432:22	556:19	316:5
521:24	<b>section</b>	433:2	561:12	318:19
<b>scope</b>	385:11	434:12,18	<b>seeing</b>	321:10
337:25	462:3	435:20	307:6	337:8,12
380:4	464:10	442:11	309:13	338:23
<b>Scott</b>	471:21	445:9	351:4	416:10,14
347:22	472:24	451:8	375:13	416:18
348:11,11	500:15	457:12	488:25	417:3,6,15
348:12,13	510:16	460:12,17	495:13	417:17
348:24	<b>secure</b>	482:16,18	507:2	419:12,17
372:1	545:2	484:1	561:6	420:1,25
385:22	<b>see</b>	486:12	<b>seen</b>	422:23
459:13	295:24	487:4	297:1 306:6	423:17,22
487:10	296:19	488:8	311:19	424:1,13
507:24	299:12	491:10	345:7	462:13
542:3	302:16	493:9,13	351:22	476:21
<b>scott@sw...</b>	310:4	493:13	376:21	482:15,21
415:10	313:17,21	495:6,8,13	395:2	483:1,2,17
<b>screen</b>	314:9,18	502:14	426:9	483:25
		504:6,25	497:22	

484:14,16	430:21	<b>separate</b>	441:11	476:3
485:1,25	490:10	327:7,8	461:6	556:1
495:12	507:12	348:18,19	533:2	<b>SHORTHAND</b>
496:18	526:20	348:21,22	<b>setting</b>	564:1
498:4,5	<b>sent</b>	348:22	382:21	<b>shortly</b>
499:15,15	298:2,18	410:22	466:20	485:8 517:1
499:20,20	324:6,8	438:22	470:5	<b>should've</b>
500:3,4,8	338:23	<b>separated</b>	532:19	368:5 370:1
501:15	340:13,18	444:9	<b>settle</b>	<b>shoved</b>
502:3,5,16	341:6,12	<b>separately</b>	436:25	545:8
502:21	347:16,20	304:10	<b>seven</b>	<b>show</b>
503:1,14	347:21	400:4	321:12	295:23
505:20	374:9	<b>seriously</b>	324:1	306:14
506:4	385:23	511:15	531:24	314:5
513:22	407:17	<b>serve</b>	534:7	451:15
514:12,15	408:18	534:4	544:20	458:8
514:22,24	414:8	565:11	<b>shady</b>	484:5
515:3	435:23	<b>served</b>	342:24	492:2
525:10	460:11	344:23	343:11	493:18
535:19,19	462:23	428:15	<b>share</b>	504:12
537:8	485:13	<b>serves</b>	318:11	507:7,9
541:16	493:6,15	356:3	414:11	548:20
543:16,20	509:15	<b>service</b>	416:1	<b>showed</b>
<b>Senator's</b>	517:2,25	306:3	433:17	439:4,22,24
320:5	521:16	350:15	445:23	441:25
<b>Senators</b>	522:9	403:2	478:15	<b>showing</b>
340:25	523:3	440:5	<b>shared</b>	347:13
497:4	536:13	458:5	305:10	414:9
<b>send</b>	537:6	494:19	307:2	483:17
485:10	539:9	<b>Services</b>	311:20	<b>shown</b>
536:7	540:10	327:1,3,13	324:12	298:13
538:22	542:18	327:14,19	414:15	309:4
539:5	552:1	327:24,24	483:19,20	313:4
550:10	553:20	328:19	<b>sharing</b>	345:14,17
<b>sending</b>	554:3	331:7,9,23	544:21,23	523:25
324:11	556:11	336:15	<b>sheet</b>	<b>shows</b>
339:6	<b>sentence</b>	<b>servicing</b>	565:15,16	460:4
385:21	301:14	356:24	565:18,19	537:15
502:4	319:14	<b>session</b>	566:1	<b>shut</b>
<b>sends</b>	322:16	326:1	<b>Sheez</b>	355:5,22,22
549:18	324:14	350:24	528:14	421:4
<b>sense</b>	364:23	355:24	<b>shocked</b>	478:10
329:1	392:7	356:1,4	416:23	<b>sic</b>
346:17	457:1	422:8	418:10	313:21
356:21	473:8	562:22,23	<b>shoot</b>	325:9
359:12	476:9,11	<b>set</b>	369:2	449:9
368:12	510:18	384:24	<b>short</b>	463:1
369:7,9	515:5	423:10	355:11	491:4,8,15
405:23	524:23	437:9	412:11	519:23
421:17	525:1			



528:25	517:7	305:24	<b>sliding</b>	<b>software</b>
536:8	528:23	370:17	430:22	315:15
540:19	548:20	<b>situated</b>	<b>slightly</b>	<b>sold</b>
<b>side</b>	<b>simple</b>	376:3,8	340:8 392:4	520:16
336:3	445:1	<b>situation</b>	505:5	<b>solicited</b>
353:14,19	<b>simplest</b>	355:14	526:25	525:4
424:16	553:5	437:10	<b>slippery</b>	<b>solution</b>
478:7	<b>simply</b>	441:9	466:9	414:12
501:12	418:20	505:9	<b>slope</b>	506:11
544:13	<b>simulato...</b>	533:2	466:9	<b>solve</b>
546:3,24	437:23	<b>situations</b>	<b>slot</b>	328:9
<b>sideways</b>	<b>simultan...</b>	450:9 455:4	387:13,15	334:23
300:2	545:7	<b>six</b>	437:23	463:24
<b>sign</b>	<b>sincere</b>	323:24,25	475:23	464:21,22
565:18	544:24	339:16	502:9	475:22
<b>signature</b>	<b>Sincerely</b>	340:22	527:21	512:9
536:6 563:7	565:23	389:6	528:13,21	<b>solved</b>
565:12,14	<b>sincerest</b>	469:7	551:7	476:24
565:18,19	561:4	471:10	553:7	<b>solves</b>
567:1	<b>single</b>	475:7	559:4,6	486:24
<b>signed</b>	311:24	531:24	<b>small</b>	<b>somebody</b>
403:11	394:15	534:6	324:17	321:21,21
493:22	462:19	544:20	327:1	336:4
<b>significant</b>	473:16,19	<b>sixth</b>	344:3,13	341:10
297:24	<b>single-h...</b>	299:23	344:14,20	353:15
468:12	353:1	<b>skip</b>	457:13	441:6
<b>signific...</b>	<b>singled</b>	318:18	<b>Smarr</b>	454:4
475:16	473:19,20	319:13	358:10	466:1
<b>signing</b>	<b>sir</b>	322:16	359:17,19	556:22
564:8	295:14	325:7	360:12	<b>somebody's</b>
565:12	377:9	410:3	363:8	414:4
<b>silly</b>	396:19	420:12,21	364:3	<b>something's</b>
501:4,8	414:20	432:24	365:10	465:20
<b>Silver</b>	473:18	445:21	368:22	<b>somewhat</b>
349:19,23	521:3	446:24	<b>Smith</b>	321:7
351:1,6,18	534:10	451:3	292:25	442:14
351:22,25	<b>sit</b>	455:17,24	293:13	557:19
465:15	301:9	495:2	497:12	<b>son</b>
<b>similar</b>	302:17	<b>skipping</b>	499:4,8,14	413:9,16
336:11	303:23	360:13	499:21	441:10
348:2	333:6	539:25	523:4,7	<b>SONDRA</b>
354:6	378:2,8	<b>slash</b>	547:24	289:11
446:1	379:15	314:2	548:13,15	<b>soon</b>
447:19	415:3	<b>slept</b>	550:4	562:1,15
450:10	426:11	325:23	552:18,19	<b>Sor-</b>
454:4	482:2	<b>slewis</b>	<b>society</b>	439:13
462:17	489:22	557:20	398:24	<b>sorry</b>
465:14	532:12	<b>slewis@s...</b>	<b>soft</b>	300:21
490:1	<b>sitting</b>	556:18,20	327:6,9,20	305:17,18

313:1	505:12,20	320:11	448:18	311:13
314:19	507:21	476:1	<b>specific...</b>	<b>spin</b>
318:23	508:23	<b>sound</b>	302:6 332:7	491:14
319:15	510:17	516:22	332:20	<b>split</b>
321:5	514:6,9	<b>sounded</b>	333:23	546:16
323:23	515:18	450:22	346:22	<b>spoke</b>
325:11,23	520:10,11	<b>sounds</b>	347:2	321:14
327:17	520:24	371:6 417:5	359:1	373:8
333:11	525:5	497:3,8	384:12	388:22
334:12,19	528:4,14	504:5	410:14	500:2,21
345:21	532:3	556:4	424:3	502:7
347:2	533:15	561:3	440:22	505:1
351:9	535:3,10	<b>sourced</b>	452:19,20	517:1
354:23	535:22	526:5	471:20	526:24
363:14	536:4	541:10	472:23	540:20
364:12	537:24	<b>South</b>	473:5,15	<b>spoken</b>
365:19	538:25	294:14	473:17,18	554:20
367:20	546:9	492:16	473:20	<b>sport</b>
373:10	552:6	<b>space</b>	474:1	327:6,9
379:6	555:14	325:15	476:17,19	<b>spot</b>
380:14	558:4,12	<b>span</b>	489:17	434:6
381:15	561:19,22	464:8	497:5,16	<b>spring</b>
393:22	562:9	<b>speak</b>	503:3	387:6 529:4
407:3,3,10	<b>sort</b>	308:23	<b>specified</b>	<b>Springfield</b>
412:17	305:14	327:2	560:8	321:25
418:12	317:8	346:19	<b>specify</b>	326:9
423:24	333:12	450:15,19	477:7	343:23
426:20	346:17	467:7	<b>speculate</b>	344:6
428:12,12	351:5	533:15	486:19	356:11
429:16	354:14	538:13	489:25	413:21
432:5,15	355:16	545:21	490:4	439:21
434:6,13	356:16	546:24	<b>speculating</b>	<b>Square</b>
436:8	370:8	561:17	384:8 388:2	290:6 565:3
439:11,11	390:8	<b>speaking</b>	<b>speculation</b>	<b>St</b>
439:13,13	395:4	307:22	308:14	290:8 292:2
439:14	417:11	<b>speaks</b>	376:15	294:15
447:16,18	441:11	392:17	377:24	295:21
448:5	444:10	416:17	379:5	436:5
452:14,23	445:25	457:2	431:3	439:20
462:18	451:12	469:1	534:25	440:2,12
463:8	453:3	<b>special</b>	547:9	441:1
475:1	455:21	496:23	<b>speed</b>	447:5
478:8	457:24	501:20,20	511:15	557:14
479:15	465:14,23	508:20	525:17	565:4
481:1	502:15	525:14	<b>spell</b>	<b>stab</b>
485:3	522:8	<b>specific</b>	447:10	370:8
487:25	529:3	312:21	<b>spend</b>	<b>stack</b>
488:10	<b>sorting</b>	346:18	560:8	535:12
490:3	393:14	384:8	<b>spent</b>	<b>Stacy</b>
504:25	<b>sorts</b>			

516:19	493:10	399:18	531:8	371:21
517:25	495:4	400:12,14	533:20	504:14
521:16,22	504:15	402:3,9	<b>stations</b>	<b>stickers</b>
522:6	514:16	403:10,13	374:16	562:21
<b>staff</b>	519:2	404:7	456:6	<b>stop</b>
311:14,20	528:14	414:8,14	<b>statute</b>	343:7
324:15	553:24	421:8	425:20	354:19
342:20	555:4	427:5	468:11,22	432:3
416:3,6	<b>started</b>	462:2	474:19,20	453:25
485:11	295:10	479:3	478:24	465:4
486:1	343:15	481:15	479:23	471:12,25
529:21,22	408:22	497:14	554:11	472:17
<b>stage</b>	491:10	501:18,19	<b>statutes</b>	473:3,10
461:6	502:15	503:10	376:5	473:13,16
<b>stake</b>	<b>starting</b>	515:13	382:15	473:25
293:19	392:22	516:3	398:15,22	474:2
<b>stamp</b>	475:25	545:3,9	426:2	480:20
354:2	528:9,18	547:7	471:22	481:6,14
490:21	542:9	554:12	472:25	494:1
<b>stance</b>	<b>starts</b>	555:3	483:12	<b>stopped</b>
423:2,3,8	299:20	567:3	<b>staving</b>	324:25
<b>stand</b>	315:25	<b>state's</b>	545:7	365:2
436:23	357:20	496:21,22	<b>steadfast</b>	411:7
488:24	406:24	<b>stated</b>	324:16	458:7
548:9	434:11	297:17	<b>stenogra...</b>	<b>stopping</b>
565:20	436:3	541:16	564:6	309:13
<b>standalone</b>	504:18	<b>statement</b>	<b>step</b>	474:23
549:14	538:11	362:19	462:19	492:24
<b>standard</b>	540:9	400:18,20	505:16	<b>stops</b>
320:19	<b>state</b>	402:4	<b>Stephanie</b>	539:17
<b>standpoint</b>	294:17	484:17,19	412:7,10	<b>store</b>
430:21	310:2	503:10	415:8	292:2
<b>stands</b>	318:19,25	512:2	<b>Stephenson</b>	<b>stores</b>
360:8	321:13	532:13	289:24	394:4
422:19	326:17	<b>statements</b>	294:16	395:14
<b>start</b>	339:4,8	451:16	564:2,14	539:17
296:17	340:20,22	<b>States</b>	565:24	<b>story</b>
297:9	340:25	289:1 294:8	<b>steps</b>	305:4 413:4
313:13	341:7	<b>statewide</b>	349:12	413:22
316:5	346:24	368:11	505:16	438:3
319:16	356:23	<b>stating</b>	<b>Steve</b>	477:22
346:6	358:3	362:20	426:12,14	526:24
372:18	365:18	440:22	427:13	<b>strategies</b>
373:16	368:9	454:13	<b>STEVEN</b>	508:10,16
402:23	380:14,17	<b>station</b>	289:10	512:8
418:16	380:21	387:14	<b>stick</b>	<b>strategy</b>
432:19	382:2	409:15	430:8	354:15
445:22	384:6	410:23	<b>sticker</b>	357:10
459:24	397:4	529:6	313:7	397:19
	398:9,12			

440:1,2	525:14	466:7	387:7	371:5
509:2	<b>subcontr...</b>	<b>sue</b>	417:25	388:5
512:23	292:4	442:20,22	418:3	389:1
513:1,5	435:25	447:20	463:19	395:15
514:3,4	<b>subcontr...</b>	448:2	508:19	406:15
<b>street</b>	319:7,8	451:20	<b>super</b>	408:5,5,14
290:16	507:10	510:1,22	403:8	412:21
361:6,13	<b>subject</b>	<b>sued</b>	<b>supervisory</b>	418:18
365:16	292:19	443:4	361:24	434:22
366:17	313:19	<b>sufficient</b>	<b>supplement</b>	486:12
393:15,17	338:15,16	509:7	312:5	487:1
394:18	339:20	<b>suggest</b>	<b>suppleme...</b>	493:3
409:16	342:4	426:10	493:22	495:21
<b>strictly</b>	349:12	<b>suggested</b>	<b>supply</b>	518:14
466:6	372:22	436:19	527:5 529:9	527:6
<b>strike</b>	435:25	484:1	530:17	532:1,7,21
326:15	450:19	488:7,15	531:13	543:3
427:9	459:16	489:20	<b>support</b>	<b>surmising</b>
<b>strong</b>	489:7	<b>suggesting</b>	291:24	485:20
423:8	491:5	419:25	304:21	<b>surprised</b>
466:13	509:18	<b>suggestion</b>	318:24	427:2
479:17,17	529:19	481:17	324:16	<b>survive</b>
479:20	538:7	483:2	350:19	394:23
<b>struck</b>	540:11	<b>suggestions</b>	357:13	<b>suspect</b>
402:21	<b>submit</b>	482:13	372:22	340:15
<b>structure</b>	513:7	<b>suing</b>	376:10	368:4
317:3	525:21	401:2	497:14	369:19
<b>structured</b>	<b>submitted</b>	525:11	548:4	<b>suspended</b>
448:13	510:6 511:9	<b>suit</b>	554:14	563:5
485:1	517:23	515:9	<b>supports</b>	<b>Swain</b>
<b>structures</b>	<b>subscribe</b>	524:15	309:3	347:22
394:13	567:17	<b>Suite</b>	<b>suppose</b>	348:11,12
<b>structuring</b>	<b>subsequent</b>	290:7,16	489:14	348:13,24
372:9	375:4 529:8	294:14	<b>supposed</b>	372:1
<b>struggling</b>	<b>substance</b>	565:3	368:3	385:22
397:7 431:5	567:14	<b>Sullivan</b>	<b>sure</b>	459:13
<b>student</b>	<b>succeed</b>	295:18	296:12	507:24
465:2	430:10	316:7,10	301:18	542:3
<b>studied</b>	515:22	540:3	306:23	<b>swaingro...</b>
302:17	<b>succeeding</b>	550:24	308:12	347:22
487:11	500:23	551:8	309:12	348:15
<b>stuff</b>	<b>successful</b>	552:9,10	320:15	487:10
330:10	457:11	<b>summarizes</b>	333:1,14	<b>swear</b>
395:2	475:21	357:9	333:18	294:25
418:2	<b>successf...</b>	<b>summary</b>	334:2,2,5	<b>sweep-</b>
<b>style</b>	356:5 545:5	304:24	344:3	442:16
390:16	<b>sudden</b>	305:14	351:10	<b>sweepstake</b>
<b>subcommi...</b>	321:22	461:18	358:19	438:6
508:20	367:5	<b>summer</b>	359:14	443:19

<b>sweepstakes</b>	529:10	<b>talk</b>	<b>talking</b>	528:22
437:11,17	<b>tabs</b>	297:18	311:14	532:15
437:22	351:22	305:18	316:1,16	541:4
438:18,21	393:2	312:21	319:23	<b>Taneyco-</b>
438:21,23	<b>take</b>	323:24	331:17,19	352:22
439:4,18	302:4 335:1	346:15	350:3	<b>targeted</b>
440:18,22	335:16	347:19	354:11	461:13
441:7,25	358:22	386:21,25	356:18	487:4
442:4,14	360:15	387:1,5	358:20	<b>task</b>
442:17	362:22	388:13	361:2	378:17
443:8,24	364:19	410:18	362:5	497:16
445:12,17	368:15	422:17	364:24	500:18
446:5	371:2,3,4	432:12	369:8,12	<b>tasked</b>
451:13,18	378:23	441:5	375:17	380:22
453:3,6,8	379:14	442:25	388:24	<b>Tate</b>
453:18	382:9	446:1	389:8,23	291:14
454:9,13	383:8,8	479:8	392:14	339:21,25
455:6	400:9	480:24,25	393:1,18	341:13
456:1,14	409:22	493:1	394:2	345:14
495:10	412:24	555:21	395:16	<b>Tate's</b>
535:6	414:10	559:18	398:11	340:15
<b>sweets</b>	420:10	<b>talked</b>	400:11	<b>taverns</b>
437:11	421:18	309:18	405:11,12	319:22
<b>switch</b>	423:3	324:5	409:24	320:3
334:15,24	427:7	325:4	418:2,9	321:23
<b>sworn</b>	449:11,11	338:1	420:24	343:6
295:3	449:17	340:7	421:13	344:16
<b>system</b>	458:16,17	341:11	422:6,8,20	356:10
299:16	477:8	342:5	425:14,17	361:9
315:12	484:22	353:21	434:24	366:18
<b>systems</b>	485:20	384:22,23	438:16,18	394:3
374:22	493:2	384:25	451:18	395:8,14
	498:3	385:1	454:4	<b>tcmax.net</b>
	504:1	387:15	455:5	358:1
<b>T</b>	518:22	401:22	457:18	<b>tea</b>
291:1,1,5	548:1	403:5	460:17	423:13
<b>tab</b>	550:25	408:5,21	465:20	<b>team</b>
318:21	555:20	426:12	470:17	327:25
319:9	556:2,2	438:22	474:11	<b>Teasdale</b>
337:25	559:13	463:18	494:3	372:6
350:14	<b>taken</b>	467:9	498:8,9	<b>technical</b>
351:5	414:19,24	478:22	505:25	554:14
437:1,3,3	497:13	479:4	506:2	<b>technically</b>
506:7	564:3,6	489:12	508:7,17	398:1
507:4	565:11	497:21	510:18	<b>technology</b>
549:12	566:5	503:17	519:13	518:18
<b>table</b>	567:9	520:24	520:17	<b>teens</b>
405:16	<b>takes</b>	526:22	525:15	361:11
458:10	318:22,23	541:6	527:21	<b>tell</b>
	423:8	554:2	528:12,21	

301:9	510:23	404:16	311:24	446:3,24
303:25	512:24	<b>testify</b>	314:25	455:24
305:3	514:1	295:3	328:14	456:13
330:2	527:10	<b>testimony</b>	330:23	457:10
335:15,25	537:21	295:12	331:8	465:12,12
342:21	549:20	403:15	336:6	465:22
358:1	557:20	499:19	346:17	466:10
367:9,9	<b>tells</b>	518:7	366:10	474:4
373:1	307:4 431:7	520:12	367:5	475:11,15
418:15	<b>tem</b>	521:1	381:21	478:6
420:7	417:24	527:16	394:1	479:13
436:4	423:9	528:9	399:22	499:10
440:9	424:23	530:19	409:10	500:14
441:10	<b>ten</b>	534:16	419:10	501:2,7,11
443:11	504:3,5,6	560:21,23	437:5	507:8
444:5	<b>tens</b>	564:5,6	464:22	509:23
447:2	361:11	565:11	465:24	521:13
463:23	<b>tenth</b>	<b>testing</b>	475:5	523:21
466:18	330:19	522:2	477:4	534:9
467:16	<b>term</b>	<b>text</b>	512:15	549:3
477:20,25	326:4,6	470:15	548:22	<b>think</b>
478:13	417:23	<b>thank</b>	549:9	295:24,25
488:5	428:14,18	300:21	551:12	297:23
491:15,17	446:18	320:14	556:23	298:12
491:19	512:5	365:23	<b>things</b>	300:3,16
505:24	<b>terminal</b>	407:13	296:6 305:5	301:17
506:6	439:22	434:14	310:20	303:24
511:4	<b>terminals</b>	447:14,15	311:18,22	304:18,19
513:20	313:21	492:20	312:2	304:23
527:7	392:25	507:15	325:16	305:2,16
529:24	393:8	543:15	331:2	305:19
536:6,24	394:12	558:11,12	334:6	307:23
544:2,18	438:17	558:21	349:2	308:3,4,7
549:21	<b>terminol...</b>	561:5,11	353:3	309:4,14
557:10	392:10	565:22	361:2,15	310:14,17
<b>telling</b>	<b>terminology</b>	<b>Thanks</b>	364:7	311:4,11
366:21	319:12	472:3	366:23	312:3,8,18
389:4	332:21	540:19	379:12	312:24
400:12	502:6	559:23	389:23	314:13
401:12	<b>terms</b>	<b>theory</b>	396:14	315:20
414:9	402:24	440:1 525:9	403:23	321:19
430:16	<b>terribly</b>	<b>thereof</b>	416:23,24	322:6
437:13	430:1	539:5	417:13	325:25
443:15,17	<b>test</b>	<b>thereon</b>	418:20	326:1,4
443:18	343:18	567:16	423:14	328:23,24
444:5	519:17	<b>thing</b>	425:11	328:25
455:7	526:18	297:14	431:8	329:8
461:6	<b>testified</b>	299:17	433:24	330:6,17
497:23	295:6	300:15	437:21	332:8,14
510:9,14			445:15,24	332:16

333:16	397:9,14	453:5,10	508:7	<b>Thole</b>
334:1	397:16,16	453:14	512:6,18	446:6
335:2,7,8	398:5,16	454:2,17	513:2,17	<b>thought</b>
335:10	398:21	454:18	514:22,22	377:11
340:8,17	399:1	456:8	515:4	386:23
340:22	400:15	458:20	516:24	395:9
341:4,14	401:3,18	459:6	518:1	401:22
342:8	401:24,25	460:23	519:23	414:3
345:12,15	402:18	461:2	520:14,16	415:2
345:19	403:18,21	463:19	525:8,8	433:22
346:9	405:9,18	464:1,15	526:9,13	442:24
348:17,21	405:20	464:19	527:6,13	481:9
349:1,2,24	406:13	465:1,4,17	527:25	483:22
350:21	408:3	467:7	530:11	485:2
352:24	411:5,6	468:6,7,9	532:9	497:24
353:2,8,19	416:12,17	468:17	533:24,25	498:20
353:20,22	416:22	469:17,22	537:1,12	501:1
354:1,7	417:9,23	470:6,19	539:2,7,24	523:15
355:21,22	417:24	471:1,9	541:3,4	526:14,15
355:23	419:4,9,14	474:18	542:15,23	<b>thoughts</b>
357:8,14	419:18,19	476:7	543:11,11	480:18
357:15	421:2,5,5	477:17,19	545:17,18	483:19
359:16,23	422:3	478:21,23	545:24,25	<b>thousands</b>
360:7,8	423:11	479:8	547:11	312:1 343:5
362:3	424:12,24	480:4,15	548:5,14	<b>thread</b>
364:14,23	424:24	481:18,25	551:3	291:11,13
365:24,24	425:18	483:1,3,4	552:15	291:14,16
365:25	426:3,9	483:23,25	553:5,24	291:21,23
367:12,20	427:6,9,15	484:3,4,8	554:7,16	292:1,6,11
368:14,23	427:21,21	484:12	554:23	292:16,19
368:25	427:22	486:1,24	556:25	292:21
369:16	428:13,15	487:17,23	557:9	293:3,7,12
370:9,22	429:4	488:11,18	559:24	293:16,19
370:23	431:8	489:3,23	<b>thinking</b>	<b>threatened</b>
372:7	432:4	490:18,19	417:4	442:20
373:17	434:23	491:22	424:18	443:4
377:13	435:7	492:2,11	437:2	<b>three</b>
379:23	436:24,24	496:13	462:25	296:1
381:19	437:1,20	498:21	500:20	298:14
384:15,23	439:2,2,9	499:17,18	535:2	299:1
387:21,21	439:9,16	500:1,19	562:17	342:4
388:25	440:15,19	500:22	<b>thinks</b>	345:8
389:8	441:11,13	501:10,10	385:16	434:16
390:4,7,21	442:3	502:8,11	514:17	544:13,20
391:9	444:9	502:13,16	515:1	551:14
392:16,16	445:2,5	502:20,23	<b>third</b>	<b>throw</b>
394:1	446:22	502:25	299:19,20	465:23
395:1,2,17	449:10	503:17	307:22	474:15,15
395:20,20	450:3,8	506:22	386:7,8,10	<b>throwing</b>
396:3,6	451:2,21	507:1,4	424:25	

401:8	331:20,20	462:11	368:12	527:4,19
<b>Thursday</b>	337:22	467:15	369:7,9	528:10,19
509:16	338:3	469:12	417:6	530:17
<b>ticket</b>	339:5,9	470:2	419:16	539:12
300:1,9	340:23	476:22	<b>tip</b>	540:2
<b>ticket-type</b>	341:18	478:22	327:6,9,20	541:11
307:15	343:24	479:11	<b>tipped</b>	555:3
<b>tickets</b>	344:24	482:25	441:7	565:7
298:20	348:1,6,9	483:17	<b>tirelessly</b>	566:3
299:24	349:1,24	486:4	464:8,18	567:7
301:5	351:3,21	488:20	<b>title</b>	<b>TNT's</b>
304:25	354:8,17	490:21	408:1,4	303:8 311:6
305:1,3,14	357:9	492:3	<b>titled</b>	315:9,12
307:5	358:4	494:23	296:20	326:23
308:6	361:23	495:22	<b>TN-</b>	328:12
309:4,6	362:16,16	499:11	448:6	329:3
<b>tie</b>	364:15	500:11,14	<b>TNT</b>	331:3
490:17	365:25	501:14	289:5 294:5	516:8
<b>tied</b>	368:16	503:23	294:20	<b>tobacco</b>
299:3	370:22	504:8	295:12	309:24
412:22	371:14	515:17,21	296:23	360:8
453:6	374:3	516:2,25	297:25	<b>today</b>
<b>ties</b>	376:1,18	517:11	299:5	295:20
471:1	387:8,9,17	520:25	304:10	297:2
<b>till</b>	392:17,23	525:16	309:19,20	298:7
297:9	400:2,23	526:24	310:3,4,5	301:9
421:24	401:3	529:11	310:7	307:20
<b>Tilley</b>	402:12,16	533:19	311:2	313:16
416:8	403:5	536:10	314:16	315:5
422:10	408:9,10	539:21	315:1,22	332:12
423:3	408:11	548:6	316:14,15	333:7
426:13,15	409:25	553:9	316:17	362:13
428:15	411:1	555:16	317:11	370:17
<b>Tilley's</b>	412:3,12	557:22	318:7	376:1
427:13	412:16	558:14	327:7	378:2
<b>Tim</b>	416:18,23	560:7,8,9	328:25	383:12
372:1	417:17	560:23	335:24	390:6
<b>time</b>	420:9	565:12	336:15	416:3
294:4,5	421:21	<b>times</b>	399:8	426:11
297:23	423:15	330:10	407:24	445:4
301:16,16	427:14	334:22	412:10,12	482:2
302:5	430:19	366:16,17	447:19,23	485:21
308:12	432:3	400:5	447:24,24	489:23
310:13,19	438:20	406:2	448:9,9	501:3
319:17	440:19,21	409:18	469:7	531:1
321:24	447:4	463:5	492:4	532:12
325:20	448:19,20	479:16,17	516:4	537:5
326:18	449:12	490:14	517:3	553:19
330:19	454:7	503:9	526:5	<b>today's</b>
	459:1	<b>timing</b>		294:4



331:20	521:17	360:2	308:17	499:6,23
565:20	522:7	385:20	328:16,25	501:22
<b>Todd</b>	529:12,21	388:19	329:11	503:4,22
553:13,16	529:22	406:22	331:3,12	508:12
553:17,22	530:6,14	408:10	332:4,7,20	510:1,22
553:22	533:6	420:2	333:24	512:16
554:5,8,21	547:25	451:4	334:7	513:16
554:22,22	548:7,16	459:11	335:20	515:8,13
555:1,10	<b>Tom</b>	461:4,5	336:11	515:23
<b>told</b>	347:24,25	474:3	368:19	516:5
298:18	348:8	486:15	374:14,14	517:5,9
302:18	357:22,22	487:20,24	374:21	520:4
311:11	357:25	487:25	375:5,6,18	521:18
321:17	358:1,2,3	491:4	383:21	524:2,6,10
325:22	385:21	493:6	385:5	525:6,16
334:1	413:9	504:18	389:15,21	525:19
343:17	415:8	507:20	389:25	527:21,22
366:10,15	435:23	523:2	390:1,6,6	528:12,21
367:4	436:4	535:15,22	390:15	528:22,23
408:24	438:2,4	535:23	391:3,12	529:6,15
410:6,9,9	440:2	537:16	391:21	529:16
410:13,15	441:9,12	540:9	393:17,24	531:5
414:15,16	442:19	541:25	409:7,13	532:16
414:21	444:5	550:3	409:23	534:15
417:18	459:13	552:17	410:15	541:19
418:4	487:9	553:12	416:4	546:22
423:6	493:7	556:10,12	422:10	547:6
426:17	504:19	<b>top-level</b>	423:19	555:5
438:2,4	505:7	304:23	424:3	558:2,20
440:16	507:23,23	<b>topic</b>	426:15,16	559:6
442:19	540:11,18	298:19	427:2,4	565:7
444:6	542:2,20	309:22,22	437:24,25	566:4
449:12	543:15	309:23,24	439:25	567:8
452:7,12	<b>tomato</b>	310:1,2,3	471:12,25	<b>Torch's</b>
452:20	406:5,5,5,5	310:5,6,9	473:3,5,11	387:13
454:17	<b>tomcobb@...</b>	310:10	473:13,16	427:3
467:8	347:21	453:1	473:17,19	497:17,24
478:20	<b>Tommy</b>	555:24	473:20,20	511:21
480:2	413:14	<b>topics</b>	473:21,25	520:17
492:3	<b>tone</b>	297:18	474:2,23	525:13
497:22	423:10	298:1,10	475:24	528:13
507:2	<b>top</b>	309:17	476:19	533:5
510:15,16	299:9 300:7	310:16	480:20	<b>Torch-type</b>
510:19	304:16	312:16	481:6,14	328:16
514:4	309:12	446:11,15	491:10,18	<b>tort-</b>
516:20,24	326:2	<b>Torch</b>	492:10	446:17
516:25	345:21	289:9 292:1	496:24	<b>tortious</b>
517:8	347:15	294:6	497:6	446:3,17,25
519:15	349:15	299:6	498:14,15	447:7,20
520:2,23	357:20	305:6	498:19,19	449:20

450:2,13	361:5	396:14	544:5,8,9	517:20
450:25	<b>train</b>	<b>troubling</b>	<b>trying</b>	526:3
451:11	343:3	325:9	303:14,15	532:8
452:1	<b>training</b>	<b>truck</b>	303:25	534:4,13
510:2,22	382:14	539:17	312:7,8,10	544:5
511:1	<b>transcribed</b>	<b>true</b>	320:4	545:22
516:10,12	565:20	317:21	322:10	546:15,19
524:6	<b>transcript</b>	332:15	325:2	548:21
<b>tortiously</b>	289:17	333:5	330:8	551:11
448:16	292:23	344:19,25	341:8	553:5,8
449:23	528:16	404:24	344:2,21	<b>turn</b>
<b>total</b>	561:21	515:25	362:4	466:21
444:19	562:1,2	516:2	365:18	494:13
<b>totality</b>	564:4	531:20	381:4	515:8
311:8	565:6,10	534:3,4,9	392:18,19	518:19
<b>totally</b>	565:14,15	539:21	393:11	559:12
418:13	565:20	561:24	394:20	<b>turned</b>
495:23	<b>transcripts</b>	564:4	400:7	350:12
<b>touch</b>	562:15	567:15,19	406:11	355:18
536:20,20	<b>transition</b>	<b>trust</b>	413:25	<b>turning</b>
<b>Touché</b>	394:7	317:2,2,22	417:13	351:19
450:24	<b>transpired</b>	<b>Trustees</b>	418:22,23	<b>Turntime</b>
<b>tough</b>	346:16	316:9	419:2,5,23	289:18
432:13	551:23	<b>truth</b>	421:9	291:2,10
<b>tournaments</b>	<b>transver...</b>	295:4,4,5	423:13	291:12,14
327:22,22	394:16	308:2	425:9,12	291:16,18
<b>town</b>	<b>trapping</b>	452:14	429:17	291:20,22
316:9	496:2	536:25	433:16	291:25
552:10	<b>trick</b>	<b>truthful</b>	435:10	292:3,5,8
<b>toy</b>	312:9	410:13	436:18,21	292:10,12
465:12	<b>tricked</b>	<b>try</b>	436:24	292:18,20
<b>track</b>	321:20	329:5	440:3,4,25	292:24,25
300:11	<b>tried</b>	334:15	442:17	293:2,5,7
419:7	386:19,21	335:14	443:3,25	293:9,11
<b>Tracy</b>	387:1	353:9	444:4,21	293:13,15
301:22	389:1	387:5	452:22	293:18
<b>trade</b>	399:15,21	402:25	454:18,19	294:3
310:9	400:3	407:9	455:2,14	295:2,9
325:18	442:15	421:21	455:14	316:8,23
426:21	469:1	426:22	457:5	317:1,7,13
438:7	477:21,25	432:12	458:8	353:6
453:17	483:11	433:5	465:22	372:1
457:23	502:2	464:8,22	466:9	406:25
460:22	523:19	475:22	476:21	407:18
480:17	<b>trip</b>	477:20	478:15	408:18
<b>traditional</b>	551:11	478:13	492:12,18	412:7
320:7	<b>trips</b>	483:16	494:23	413:5
343:23	346:23	486:11	500:25	415:8,9,9
<b>tradio...</b>	<b>trouble</b>	533:22	502:17	448:8
			507:7	483:21

489:6,7	<b>types</b>	521:23	309:10	382:21
507:22	299:1 308:6	<b>underlined</b>	311:8	<b>unknown</b>
554:9	317:11	470:16	320:17,20	324:22
556:11	469:6	<b>underlining</b>	343:19	<b>unplugging</b>
560:4,14	471:14	304:20	379:21	414:9
560:21	472:2	<b>underlying</b>	380:13	<b>untrue</b>
565:7,15	473:7	299:2 305:4	390:1	473:12
565:18	474:24	305:9	391:21	<b>unwind</b>
566:2	476:12	306:11	396:11,24	443:25
567:6,11	480:21	<b>undermine</b>	419:15	<b>update</b>
<b>Turntine's</b>	481:8	442:2	426:14	292:13,16
560:10	549:15	<b>understand</b>	435:2,5	509:22
565:10,11	<b>typewriting</b>	297:24	438:5,20	<b>upright</b>
<b>TV</b>	564:7	302:5	438:23	300:5
353:2	<b>typewritten</b>	303:15	446:6,7	<b>upset</b>
<b>Twenty-five</b>	291:9	304:13,25	450:25	321:19
348:10	<b>typically</b>	309:7	451:4,19	322:2,10
<b>two</b>	320:12	323:11	451:23,25	344:4,7
296:6,13	341:4	330:12,14	452:1,6,14	349:4
305:23	450:13	331:15	452:16	350:1
325:16	<b>typo</b>	358:20	461:12	443:2
334:6	368:4	363:16	488:16	502:9
337:8		365:22	494:2	<b>upsetness</b>
339:22	<b>U</b>	371:1	530:14	344:8
373:8	<b>Uh-huh</b>	376:4	<b>understood</b>	<b>upsetting</b>
384:25	314:4	378:6,13	365:10	441:9
389:16,24	<b>ultimately</b>	381:5	393:23	<b>use</b>
392:10	370:2	382:14	396:6	300:10
436:22	383:19	395:15,18	472:12	371:3
450:7	387:23	418:19	<b>underway</b>	421:2
497:4	399:9	421:5	361:4	492:23
505:15,16	418:8	426:10	<b>unexpected</b>	523:19
508:3,3	448:20	432:25	437:8	539:4
515:16	519:3,10	433:16	<b>unfair</b>	<b>useful</b>
530:5	519:15	434:11	343:4 405:9	474:18
531:2	530:8	446:3,5	<b>unfolded</b>	494:15
540:24	532:14	451:12	326:3 551:4	<b>usually</b>
544:19	533:8	453:2	<b>unfolding</b>	313:13
551:13	<b>ultracon...</b>	456:24	355:14	335:2,3
<b>type</b>	399:3	466:16	416:24	461:4
317:7,19	<b>unaware</b>	467:21	<b>Unfortun...</b>	
318:10	416:6	473:9	318:20	<b>v</b>
322:18	<b>uncalled</b>	477:16,17	<b>unilater...</b>	289:8
323:3	428:11	492:19	557:1	447:15
354:14	<b>uncomfor...</b>	532:23	<b>United</b>	565:7
390:21	437:10	557:7	289:1 294:8	566:4
492:8	<b>under-</b>	559:9	<b>units</b>	567:8
518:22	305:4	561:23	343:20,22	<b>vacuum</b>
<b>typed</b>	<b>undergra...</b>	<b>understa...</b>	<b>university</b>	
302:13		298:21		

420:14,17	520:20	<b>vice</b>	444:9	357:11
420:22	<b>versus</b>	400:1 456:4	<b>VLT</b>	358:22
421:7,10	294:6 364:4	505:21	392:24	364:13
422:5,13	364:5	<b>video</b>	545:7	367:2,2
422:13	389:25	313:20	<b>VLTs</b>	371:4
<b>Vague</b>	405:24	392:25	395:5	372:18
328:23	406:10	393:2,8	549:14	383:13
331:14	423:2	394:12	<b>Volume</b>	389:13
410:25	424:11	437:1,3	289:15	396:9,22
<b>value</b>	425:5	438:17	292:24	398:19
457:12	446:6	439:22	<b>volunteered</b>	399:4,5
458:10,11	473:23	539:14	555:9	403:9,12
494:15	<b>vested</b>	561:4,18	<b>voters</b>	412:21,21
507:7,9	399:11	561:20	397:10	418:15,18
545:23,23	<b>veterans</b>	562:3,16	<b>VPT</b>	418:20
<b>various</b>	394:3	<b>video-re...</b>	437:1	421:17
311:2	395:13	289:16	<b>VPTs</b>	422:20
366:15	396:4	563:4	393:1	430:8,8,9
392:19	<b>VFW</b>	<b>videogra...</b>	394:16	430:9
393:10	293:3,6	294:2,12,24	403:1	443:6,10
394:13	320:11	371:12,12	<b>VTLs</b>	443:11
452:7,12	387:10,13	371:16	313:21	444:24
478:11	388:14,15	458:25,25	<b>vulnerab...</b>	452:10,11
541:17	388:17	459:3	416:7	452:11,18
557:25	408:22	496:9,9		456:3,17
558:18	436:5,6,8	504:7,7	<b>W</b>	456:20
<b>vendor</b>	436:20	559:16,20	<b>wait</b>	457:14
437:12,17	439:17	<b>videotaped</b>	562:24	458:23
438:1	440:10,16	294:3	<b>waiting</b>	465:25
441:7,25	441:2	<b>viewed</b>	382:16	469:4,19
539:11	443:7,11	353:4	417:21	475:20
540:2	443:18	<b>viewer</b>	<b>waived</b>	485:22
<b>vendors</b>	453:8	423:20	563:7	486:18
438:6,21,23	456:2,17	<b>violating</b>	<b>waiving</b>	489:25
439:4	456:20	542:9	565:12	490:5
443:19	517:12,23	<b>violation</b>	<b>walk</b>	495:4,25
<b>venture</b>	527:4	360:22,23	312:20	496:2
354:5	529:4,7,10	<b>virtual</b>	<b>want</b>	508:23
<b>versa</b>	529:17	561:15	300:23	512:16
456:4	530:16,18	562:5	304:8	518:6
<b>version</b>	533:3	<b>vis-a-vis</b>	307:8,25	526:10
303:6 306:1	534:23	331:13	324:14	531:17
307:24	536:3,13	<b>visit</b>	328:6,7	533:15
462:15,17	537:22	503:7	329:4,21	534:11
463:7	538:7	<b>visited</b>	330:9	544:3,9
482:7	539:23	503:15	333:17	546:7
489:11	<b>VFWs</b>	<b>visits</b>	336:6,7	548:20
<b>versions</b>	455:5	346:14	341:2	555:18,19
424:11	<b>viable</b>	<b>visualize</b>	352:12	559:17
	350:20			562:13

<b>wanted</b>	296:6	415:3	315:5	521:14
301:6	<b>wasn't</b>	425:4	316:15	530:25
330:13	341:6	426:8	329:15	552:17
333:14	356:20	439:3	331:19	<b>website</b>
339:10	370:18	450:23	335:10	433:13
372:17	387:7,8,20	453:17	336:20	<b>Wednesday</b>
393:5	387:22	454:21	352:13	522:7
408:24	426:4	462:19	353:1,9	556:12
409:5,11	428:7	467:7	357:1,17	<b>week</b>
412:24	429:19	480:19	362:8	311:13
414:11	444:4,11	482:3	371:13	505:13
415:17	464:2	483:9	398:10	523:14
416:13	472:13	484:16,19	427:9	526:7
417:19,21	483:2	484:24	432:16,19	530:5
417:22	497:10	485:1,3,4	434:24,24	531:2
421:20	500:11	490:11	440:3,4	540:25
445:23	521:2	499:12	441:20	543:15,19
461:6	<b>Wasser</b>	502:12	454:3	560:7
463:20	507:24	527:12,12	459:5	<b>weird</b>
473:13	542:4	529:2	474:11	428:14
476:9	<b>wasting</b>	538:17	476:2	<b>welcome</b>
480:24	432:3	545:18,23	478:4,4,17	507:16
490:1	<b>watch</b>	547:14	484:9	<b>went</b>
501:8	534:14	<b>ways</b>	485:6	299:14
523:24	<b>watched</b>	350:3	492:22	306:12
526:11	376:17	480:18	494:3	311:17
533:12,14	<b>water</b>	511:19	500:20	312:4
533:14,16	371:3	512:12	503:24	343:14
533:19	465:23	<b>we'll</b>	504:8,10	376:11,19
534:19	<b>way</b>	313:16	532:11,14	376:20
546:2	299:6	314:14	559:16	377:3
548:1	303:25	329:24	<b>we've</b>	381:25
549:3	304:19	368:11	307:2	390:19
550:25	336:13	384:17,17	308:12,16	403:7
557:23	353:10,25	384:18	308:17,19	405:2
558:16	354:16	442:7,7	316:15	435:11
<b>wanting</b>	355:7	471:18,19	345:7	441:5
420:25	366:11	472:21,22	361:2	448:19
496:10	370:7,24	493:2	370:21	481:19
532:1	373:5	504:6	384:22	483:3
<b>wants</b>	377:10	511:13	403:11	484:4,13
413:1	394:22	517:13,15	405:5,18	515:22
416:10,15	402:14,19	517:15	405:20	530:4
417:20	402:20	556:2	411:23	548:12
419:13	403:1,23	561:6,12	425:17	<b>weren't</b>
<b>warfare</b>	405:9,15	<b>we're</b>	468:20	370:3
512:6	406:4	297:18,18	485:9	394:16,19
<b>Warren</b>	408:15	308:20	505:14	433:24
290:4	414:5	313:14,15	506:2	443:19
294:20		314:6	507:20,21	

444:16	543:4,8,9	461:16	362:8	340:12,12
<b>West</b>	543:21	473:10,17	431:19	340:13,18
316:10	<b>Winters</b>	512:6	464:17	341:19
540:3	547:3	524:20	502:4	346:10,10
552:10	<b>wiped</b>	<b>words</b>	526:16	353:17
<b>Westfall</b>	398:22	319:17	<b>working</b>	356:1
446:6	<b>wish</b>	330:15	313:15,15	411:5,6
<b>what'd</b>	561:4	333:2	321:13	454:11
314:20	<b>withdraw</b>	334:3	369:17	469:23
<b>whatever's</b>	514:8	367:22	402:23	<b>wouldn't</b>
300:12	<b>witness</b>	424:9	408:8	303:1,2
<b>whatsoever</b>	294:25	<b>work</b>	458:3,7	356:13
324:24	352:3,8,11	299:7,16,21	478:17	462:9
<b>white</b>	370:25	299:22	494:11	469:19
467:18	371:5	300:4,11	495:12	546:4
<b>Wholesalers</b>	381:15	301:5	496:18	<b>wound</b>
359:7	428:10	303:8	502:6	414:8 484:3
<b>wields</b>	447:12	305:3	507:10	500:22
401:11	458:22	306:5	512:8,12	507:4
<b>wife</b>	477:17	307:4	524:5	<b>wreck</b>
317:24	520:10	309:5	525:9	343:3
408:18	528:1	326:20	537:21	<b>write</b>
413:6	559:14	327:9	541:16	305:19
<b>wife's</b>	561:10	328:18	<b>works</b>	502:20
317:2	566:2	349:8	379:22	505:19
<b>willing</b>	567:1,6	356:17,19	436:15	509:22
387:21	<b>Witness/...</b>	359:7	486:9	<b>writing</b>
404:1,6	567:23	373:3	<b>world</b>	308:5
420:9	<b>wonder</b>	392:19	320:12	342:22
555:2	490:23	402:25	347:12	369:18
<b>willingly</b>	<b>wonderful</b>	404:1	365:15	401:13
513:19	561:7	417:12	<b>Worlds</b>	465:2
<b>willingness</b>	<b>wondering</b>	464:7,15	469:6 471:9	466:12
366:3,7	487:17	465:4	475:6	476:4
368:16	<b>wonky</b>	470:20	487:1	502:18
557:25	312:25	493:23	<b>worries</b>	<b>written</b>
558:17	410:4	494:9,10	300:22	301:2,8
<b>Wilson</b>	<b>woodwork</b>	501:14	334:20	302:3,4,23
373:11	392:23	502:17	407:14	423:6
<b>win</b>	437:21	503:1	<b>worry</b>	454:8
385:9 430:9	<b>word</b>	508:10	333:17	466:6
430:9	301:14	525:20	456:5	482:8
491:14	321:6,6,20	526:2	<b>worse</b>	549:9,16
<b>wind</b>	322:22	546:7,8,10	328:10	<b>wrong</b>
484:22	339:21	546:11,14	<b>worth</b>	295:25
<b>wing</b>	343:16,16	552:23	464:5,19	324:24
399:3	382:18	560:19,25	<b>would've</b>	350:7,16
<b>Winter</b>	397:7	<b>worked</b>	307:18	369:25
542:18	441:11,12	322:3	310:18	375:25,25
		326:12		

376:10	310:18,25	398:7	486:11,16	506:19
431:10	313:3,23	400:16,19	486:22	507:5
448:15	313:24	401:17	488:11	516:15
451:14	314:21	402:15,15	489:2	521:17
476:18	315:20	402:19	490:7,7,8	547:25
478:7	316:3,4,20	405:20	490:13,20	561:6
488:5	322:9,14	407:6,9	492:25	<b>year's</b>
562:10	323:10	408:12	493:3,13	506:21
<b>wrongdoing</b>	327:18	409:9	495:18	<b>years</b>
447:2	329:6	411:2,4,19	496:7	321:12
<b>wrote</b>	331:24	415:13,21	498:16	326:12
301:19	333:6,10	417:23	499:13	348:10
302:12	333:21	418:12	507:13	360:15
305:21,22	334:18	419:2,14	513:2	362:21
307:24	346:6	419:24	516:18	363:9
309:14	347:5	421:14,14	517:15,17	393:7
421:12	348:21	421:23	517:21,21	394:14
454:7	349:17	423:16	518:3,14	408:9
469:13	351:15,15	427:17	520:2,14	418:7
475:2	354:25	428:20	522:23	420:4,4
476:17	356:2,17	433:2	527:24	424:19
482:5	358:8	434:23	530:11,21	425:16
484:1	359:12	435:1	530:23	440:12
493:14	362:2	441:13	532:3,25	449:21
495:4	363:2,17	442:12	538:24	450:4
500:16	364:10	444:4	539:2,24	453:24
538:21	365:13,24	445:19	544:22	464:8
539:10	366:25	447:17	546:2,10	478:9,11
	367:14,18	448:1	547:13	505:15
<b>x</b>	367:19,23	449:11	548:18,25	506:8
<b>x</b>	367:25,25	450:23,24	549:8	515:16
289:4,13	371:2	451:22	551:25	548:25
291:5	372:13,14	452:10	554:7	<b>Yep</b>
452:17	373:17,25	456:8,10	555:14,23	336:25
	376:23,23	456:13	555:25	357:17
<b>y</b>	376:24	457:17	558:7	388:6,24
<b>ya</b>	378:1,6	460:11	559:5,12	504:23
561:12	379:9	461:17	<b>year</b>	507:25
<b>yeah</b>	380:12,19	462:4	295:11	542:13
296:6,25	381:22	464:19	307:19	<b>yesterday</b>
297:3,8,10	382:6,20	468:18	337:18	345:2 436:5
297:13	383:19	469:3	349:25	482:16
299:12	384:9,9,15	470:1,19	354:9	488:8
300:18	386:7,10	470:21	424:10,12	493:21
301:15	388:18	471:1,17	424:12,17	505:20
302:19	391:2	472:3	424:17,24	<b>yokals</b>
304:13	392:16	473:25	425:8	457:12
306:15,20	395:1,25	478:18,25	462:17	
306:23	396:6,16	479:21	463:7	<b>z</b>
308:3	396:17	484:8,18	493:22	<b>zeroes</b>

314:17	<b>100</b>	<b>143</b>	<b>196</b>	<b>2:46</b>
315:1	319:20	528:4, 6, 7	295:17	482:14
<b>Zoom</b>	324:20	528:18	<b>19th</b>	<b>2:57</b>
289:16	343:20	<b>144</b>	295:10	491:8
294:12	400:7	519:2, 6, 7, 8	296:1	<b>20</b>
371:8	493:25	527:14, 25	297:6, 21	292:18
432:14	<b>11</b>	<b>145</b>	298:3	296:20
563:4	291:20	520:1	310:22	326:5
<hr/>	309:23	<b>147</b>	311:12	507:17, 20
<b>0</b>	357:18	518:19, 22	312:13, 23	522:22, 23
<hr/>	371:24	<b>15</b>	503:18	548:25
<b>1</b>	407:7	292:5 310:3	517:1	565:20
<b>1</b>	<b>11:06</b>	360:15	518:7	<b>20-</b>
297:17	371:14, 15	362:21	521:17	350:23
358:9	<b>11:28</b>	363:9	526:24	520:23
372:20	371:15, 17	408:9	528:9, 16	<b>2000</b>
384:20, 21	<b>1100</b>	459:8	530:20	308:18
432:18	290:16	460:7	532:13	<b>2000s</b>
434:5, 8	<b>111</b>	<b>15th</b>	533:7	361:10
482:11	370:12	307:19	<b>1st</b>	366:19
549:8, 10	<b>12</b>	516:15	409:19	467:9
550:8	291:22	<b>16</b>	516:21	477:22
<b>1/25/19</b>	309:25	292:8 489:5	537:1, 2	<b>2014</b>
291:25	371:20	<b>17</b>	538:6	426:24
<b>1/369</b>	382:25	292:10	<hr/>	<b>2015/2016</b>
518:21	<b>12/22/2023</b>	308:18	<b>2</b>	356:1
<b>1:00</b>	566:5 567:9	310:5	<b>2</b>	<b>2017</b>
421:24	<b>12/22/23</b>	490:25	299:7	313:19
<b>1:10</b>	563:5 565:6	<b>17th</b>	313:13, 17	315:23
421:25	<b>12/29/23</b>	301:22	313:22, 24	323:20
<b>1:15</b>	563:5	305:22	313:24, 25	324:8
421:19	<b>12th</b>	493:8, 12	314:22	325:21
449:13	324:8	505:2	459:23	337:5, 16
<b>1:19</b>	435:24	542:17	460:4, 6	337:22
459:1, 2	<b>13</b>	<b>18</b>	488:4	338:13
<b>10</b>	291:25	292:12	495:4, 14	339:18
291:18	310:1	310:6	495:15	355:25
294:14	406:19, 23	493:5	496:17	402:10
309:22	407:6, 12	<b>18th</b>	527:18	403:6
347:14	407:16	505:19	528:10, 18	437:22
<b>10/19/23</b>	408:16	549:5	542:16	523:15
289:14	432:17, 18	<b>19</b>	551:13	<b>2017's</b>
292:23	434:8	292:15	<b>2/12/19</b>	331:20
<b>10/22/18</b>	<b>14</b>	310:9	292:3	<b>2017/2018</b>
291:20	292:3 310:2	326:5	<b>2/3</b>	355:24
<b>10/24/18</b>	435:19	489:19	314:1, 9, 24	356:4
291:22	459:7	504:14, 15	315:22	<b>2018</b>
<b>10:25</b>	<b>1400</b>	504:17	<b>2:16</b>	299:1
432:22	294:14	520:24	459:2, 4	301:22



305:22	519:14	292:23	293:9	504:25
348:9	521:15	304:16	541:22	542:11,12
355:2,21	526:7	518:7	542:1	544:18
357:21	529:4	527:15	<b>2700</b>	<b>3/29/19</b>
361:14	531:5	528:8,15	290:16	292:5
362:15	536:11	565:11	<b>275</b>	<b>3/29/2019</b>
363:18	537:2,13	<b>227</b>	324:22	488:1
372:21	538:6	315:18,18	<b>277</b>	<b>3:24</b>
375:12,14	540:11	<b>22nd</b>	315:2,22	504:8,9
387:9	542:17	294:4	<b>27th</b>	<b>3:37</b>
389:9	547:18	357:21	462:24	504:9
403:7	549:6	<b>23</b>	482:14	<b>30</b>
417:25	550:13,16	292:25	485:9	293:15
463:19	553:14	298:19	<b>28</b>	326:12
<b>2018/2019</b>	556:14	522:19,25	293:11	418:7
350:23	<b>2020</b>	<b>23rd</b>	547:16	449:21
<b>2019</b>	326:1	415:10	<b>288924</b>	450:4
325:25	505:24,25	550:13	289:22	478:9,9,10
387:6	<b>2023</b>	553:13	565:6	553:11
403:7	289:19	<b>24</b>	<b>289-567</b>	<b>30 (b) (6)</b>
406:25	294:4	293:2	289:15,23	289:17
407:18	516:21	535:10,13	<b>29</b>	296:1
408:19	520:24	541:22	293:13	309:18
409:19,21	528:9,16	<b>24th</b>	550:3	560:5,9,20
409:25	565:11	372:21	554:3	561:1
411:12,16	<b>2024</b>	526:7	<b>295</b>	565:6,10
412:13	565:1	<b>25</b>	291:3	566:2
415:10	567:21	293:5	<b>296</b>	567:6
432:22	<b>20th</b>	311:16,24	291:8	<b>300</b>
435:24	509:16	538:2	<b>298</b>	343:22
440:24	512:19	<b>256-3181</b>	291:9	<b>30th</b>
459:14	547:18	290:18	<b>29th</b>	389:9
460:9	<b>21</b>	<b>259-2000</b>	459:14	<b>31</b>
462:7,24	292:20	290:9 565:4	490:20	293:18
463:9	304:14	<b>25th</b>	<b>2nd</b>	556:8
476:2	310:10	406:25	516:20,21	<b>313</b>
478:15	509:11	407:18	537:13	291:10
482:14	535:9,11	432:21	554:23	<b>314</b>
485:9	<b>211</b>	460:25		290:9 565:4
490:19	290:7 565:3	461:7	<b>3</b>	<b>31st</b>
492:4	<b>215</b>	<b>26</b>	<b>3</b>	556:12
493:8,12	356:6,20	293:7 540:7	297:6	<b>323</b>
493:22	<b>21st</b>	<b>267</b>	314:22	291:12
500:12	360:11	318:22	315:25	<b>339</b>
501:14	408:18	319:20	316:5	291:14
505:2,19	409:21,25	320:23	408:16	<b>341</b>
508:1,19	411:11,16	<b>26th</b>	411:18	291:16
509:16	<b>22</b>	460:9 462:6	461:20	<b>347</b>
512:19	289:19	<b>27</b>	495:15	291:18
517:11				

<b>357</b> 291:20 <b>3600</b> 290:7 565:3 <b>371</b> 291:22 <b>375</b> 493:25 507:4 <b>3rd</b> 508:1 522:10 550:16	461:8 462:5 483:10 489:9 <b>435</b> 292:3 <b>459</b> 292:5 <b>489</b> 292:8 <b>490</b> 292:10 <b>493</b> 292:12 <b>4th</b> 323:20 337:5 338:13 339:18	507:3 <b>504</b> 292:15 <b>507</b> 292:18 <b>509</b> 292:20 <b>50ish</b> 340:23 <b>518</b> 292:23 <b>522</b> 292:25 <b>535</b> 293:2 <b>538</b> 293:5 <b>540</b> 293:7 <b>541</b> 293:9 <b>547</b> 293:11 <b>550</b> 293:13 <b>553</b> 293:15 <b>556</b> 293:18 <b>572.010</b> 385:11 425:20 426:1 462:3 464:10 471:21 472:24 474:19 483:12 <b>5th</b> 491:8	338:16 342:5 345:25 346:2 373:17,17 <b>6/20/19</b> 292:20 <b>6/24/19</b> 292:25 <b>6/24/2019</b> 523:3 <b>6/3/19</b> 292:18 <b>63102</b> 290:8 565:4 <b>64105</b> 290:17 <b>6th</b> 313:18 315:23 324:6,13 521:8 522:6 540:11	<b>7/31/19</b> 293:18 <b>7/8/19</b> 293:7 <b>70-2.140</b> 370:13
<hr/> <b>4</b> <hr/> <b>4</b> 291:8 296:24 382:24 504:24 <b>4-31</b> 563:6 <b>4,321,000</b> 337:15 <b>4/15/19</b> 292:10 <b>4/17/19</b> 292:12 <b>4/18/19</b> 292:15 <b>4/18/2019</b> 504:22 <b>4/5/2019</b> 491:4 <b>4:10</b> 542:17 <b>4:23-cv-...</b> 289:8 294:8 565:8 566:5 567:9 <b>406</b> 289:25 291:25 564:15 <b>431</b> 292:6 459:16,21 460:25	<hr/> <b>5</b> <hr/> <b>5</b> 291:9 298:15 300:4,16 300:19 565:1 <b>5/14/17</b> 291:10 <b>5/4/17</b> 291:12,14 291:16 <b>5/4/2017</b> 313:9 342:2 <b>5:08</b> 559:21 560:2 <b>5:13</b> 460:10 <b>5:17</b> 560:2 <b>5:21</b> 289:20 563:5 <b>50</b> 340:23 356:22 <b>500</b> 506:22	<hr/> <b>6</b> <hr/> <b>6</b> 291:10 300:6,8 313:5 324:3 336:21,25	<hr/> <b>7</b> <hr/> <b>7</b> 291:12 323:13,18 338:6,11 342:5 345:17 382:24 <b>7/1/19</b> 293:2,5 <b>7/19/19</b> 293:9 <b>7/19/2019</b> 542:6 <b>7/20/19</b> 293:11 <b>7/21/2019</b> 535:16 <b>7/23/19</b> 293:13,15 <b>7/23/2019</b> 550:5 <b>7/3/2019</b> 540:14	<hr/> <b>8</b> <hr/> <b>8</b> 291:14 339:15 342:5 345:14 <b>8/17</b> 299:1 <b>8/17/18</b> 301:12 <b>8/28/18</b> 291:18 <b>8/28/2018</b> 347:16 <b>8:58</b> 549:6 <b>80s</b> 361:7 <b>816</b> 290:18
				<hr/> <b>9</b> <hr/> <b>9</b> 291:16 309:22 341:21,23 <b>9:04</b> 505:19 <b>9:20</b> 289:20 294:5 <b>9:59</b> 493:12 <b>90</b> 440:12 <b>90s</b> 361:8 366:18 <b>974</b> 289:25 564:15